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THE COMPANIES' ACT, 1862,
WITH
ANALYTICAL REFERENCES,
AND COPIOUS
INDEX;

TOGETHER WITH AN APPENDIX, CONTAINING TABLE B,
"JOINT-STOCK COMPANIES' ACT, 1856:" AND
THE RULES OF THE HIGH COURT OF CHANCERY REGULATING
PROCEEDINGS UNDER "THE COMPANIES' ACT, 1862."

By ANTHONY PULBROOK,

Solicitor,

AUTHOR OF "A TREATISE ON COMPANIES LIMITED BY GUARANTEE."

LONDON: EFFINGHAM WILSON, ROYAL EXCHANGE.

Price, Three Shillings and Sixpence.



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LONDON:
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1865.

LONDON: J. HADDON, PRINTER, 3, BOUVENIE STREET, FLEET STREET.

INTRODUCTION.

ALTHOUGH there are several treatises on the Companies Act, 1862, there are only one or two which contain the Act as it exists in the Statute Book, and those are not of a portable character. The frequently expressed desire of professional men, directors, shareholders, and others, for a pocket edition of the Act, with a good Index, suggested the publication of the present volume, in which, accordingly, the utmost care and attention have been given in framing such an Index, and most copious Analytical References. These will, it is hoped, be found so comprehensive as to enable any one fully to discuss, at a moment's notice, any question arising on the statute—often a matter of great importance at a public meeting.

This facility for reference will place the non-professional reader, notwithstanding the intricate character of the Act, in a position to master with tolerable ease any point upon which he may desire information.

The regulations in the Schedules, which only apply

to those companies which specially or by implication adopt them, are very frequently taken to be part of the Act itself; every effort has been made, by Notes and a separate Index to Table A, to enable readers to distinguish the provisions of the Act itself from those of the Schedules.

There are so many companies still in existence which are governed by Table B of the Joint Stock Companies Act, 1856, that its insertion by way of an Appendix cannot, it is thought, be otherwise than useful.

The addition of the Rules made by the High Court of Chancery, regulating the mode of proceeding in that Court, under the Act, will, it is hoped, contribute to the completeness of the present edition.

31, *Threadneedle Street*, January, 1865.

ANNO VICESIMO QUINTO & VICESIMO SEXTO

VICTORIÆ REGINÆ.

CAP. LXXXIX.

An Act for the Incorporation, Regulation, and Winding up of Trading Companies and other Associations. [7th August, 1862.]

WHEREAS it is expedient that the laws relating to the incorporation, regulation, and winding up of trading companies and other associations should be consolidated and amended: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited for all purposes as “The Short title. Companies Act, 1862.”

2. This Act, with the exception of such temporary enactment as is hereinafter declared to come into operation immediately,* shall not come into operation until the second day of *November* one thousand eight hundred and sixty-two, and the time at which it so comes into operation is hereinafter referred to as the commencement of this Act.

* Sec. 209.

3. For the purposes of this Act a company that carries on the business of insurance in common with any other business or businesses shall be deemed to be an insurance company.

Definition of insurance company.

4. No company, association, or partnership consisting of more than ten persons shall be formed, after the commencement of this Act,* for the purpose of carrying on the business of banking, unless it is registered as a company under

Prohibition of partnerships exceeding certain number.

B

Companies, &c.

this Act,^b or is formed in pursuance of some other Act of Parliament, or of letters patent; and no company, association, or partnership consisting of more than twenty persons shall be formed, after the commencement of this Act,^a for the purpose of carrying on any other business that has for its object the acquisition of gain by the company, association, or partnership, or by the individual members thereof, unless it is registered as a company under this Act,^b or is formed in pursuance of some other Act of Parliament, or of letters patent, or is a company engaged in working mines within and subject to the jurisdiction of the Stannaries.

^a Commencement of Act, sec. 2.

^b Formation of company, sec. 6.—Registration of company, sec. 17.

5. This Act is divided into nine parts, relating to the Division of Act. following subject matters:—

The First Part—to the constitution and incorporation of companies and associations under this Act:^a

The Second Part—to the distribution of the capital and liability of members of companies and associations under this Act:^b

The Third Part—to the management and administration of companies and associations under this Act:^c

The Fourth Part—to the winding up of companies and associations under this Act:^d

The Fifth Part—to the Registration-office:^e

The Sixth Part—to application of this Act to companies registered under the Joint Stock Companies Acts:^f

The Seventh Part—to companies authorized to register under this Act:^g

The Eighth Part—to application of this Act to unregistered companies:^h

The Ninth Part—to repeal of Acts, and temporary provisions.ⁱ

^a Secs. 6–21.

^d Secs. 74–173.

^e Secs. 179–198.

^b Secs. 22–38.

^c Sec. 174.

^h Secs. 199–204.

^g Secs. 39–73.

^f Secs. 175–178.

ⁱ Secs. 205–212.

Companies, &c. (Part I., Constitution, &c.)

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

6. Any seven^a or more persons associated for any lawful purpose may, by subscribing their names to a Memorandum of Association,^b and otherwise complying with the requisitions of this Act in respect of registration,^c form an incorporated company, with or without limited liability.

Mode of
forming
company.

^a Company may be wound up when number of members reduced to less than seven, sec. 79.—Prohibition against company carrying on business with less than seven members, sec. 48.

^b Form of Memorandum of Association of company limited by shares, sec. 8, and Form A, Second Schedule, p. 135.—Of a company limited by guarantee, sec. 9, and Second Schedule, Forms B (p. 136) and C (p. 142).—Of unlimited companies, sec. 10, and Form D, Second Schedule, p. 144.—Stamp, signature, and effect of Memorandum, sec. 11.—Alteration of Memorandum allowed in certain cases, sec. 12. ^c Secs. 14 and 17.

7. The liability of the members^a of a company formed under this Act may, according to the Memorandum of Association, be limited either to the amount, if any, unpaid on the shares respectively held by them,^b or to such amount as the members^a may respectively undertake by the Memorandum of Association to contribute to the assets of the company in the event of its being wound up.^c

Mode of
limiting
liability of
members.

^a Definition of members, sec. 23.

^b Company limited by shares described by sec. 8.

^c Company limited by guarantee described by sec. 9.

8. Where a company is formed on the principle of having the liability of its members^a limited to the amount unpaid on their shares, hereinafter referred to as a company limited by shares, the Memorandum of Association shall contain the following things (that is to say):—

Memo-
randum of
Association
of a com-
pany limited
by shares.

Companies, &c. (Part I., Constitution, &c.)

1. The name of the proposed company,^b with the addition of the word "limited" as the last word in such name :
2. The part of the United Kingdom, whether *England, Scotland, or Ireland*, in which the registered office^c of the company is proposed to be situate :
3. The objects for which the proposed company is to be established :
4. A declaration that the liability^d of the members^e is limited :
5. The amount of capital with which the company proposes to be registered divided into shares of a certain fixed amount :^f

Subject to the following regulations :—

1. That no subscriber^f shall take less than one share :
2. That each subscriber^f of the Memorandum of Association shall write opposite to his name the number of shares he takes.

^a Definition of members, sec. 23.

^b Name must not be identical with that of another company, sec. 20.

^c Definition of registered office, sec. 39. ^d Liability of members, sec. 38.

^e See Form A, Second Schedule, p. 135. ^f Subscribers, sec. 6.

9. Where a company is formed on the principle of having the liability of its members^a limited to such amount as the members^a respectively undertake to contribute to the assets of the company, in the event of the same being wound up,^b hereinafter referred to as a company limited by guarantee, the Memorandum of Association shall contain the following things (that is to say) :—

Memorandum of Association of a company limited by guarantee.

1. The name of the proposed company,^c with the addition of the word "limited" as the last word in such name :
2. The part of the United Kingdom, whether *England, Scotland, or Ireland*, in which the registered office^d of the company is proposed to be situate :

Companies, &c. (Part I., Constitution, &c.)

3. The objects for which the proposed company is to be established :
4. A declaration that each member^a undertakes to contribute to the assets of the company, in the event of the same being wound up^b during the time that he is a member,^a or within one year afterwards,^c for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member,^a and of the costs, charges, and expenses of winding up the company, and for the adjustment of the rights of the contributories^d amongst themselves, such amount as may be required, not exceeding a specified amount.^e

^a Definition of members, sec. 23.

^b Winding up by the court, sec. 79.—Voluntarily, sec. 129.—Subject to supervision, sec. 147.

^c Name must not be identical with that of another company, sec. 20.

^d Definition of registered office, sec. 39. ^e Liability of members, sec. 38.

^f Meaning of contributory, sec. 74.

^g See Second Schedule, Forms B (p. 135) and C (p. 142).—Uncalled-up capital of company limited by guarantee, with capital divided into shares, to be assets on winding up, secs. 90 and 134.

10. Where a company is formed on the principle of having no limit placed on the liability of its members,^a hereinafter referred to as an unlimited company, the Memorandum of Association shall contain the following things (that is to say) :—

Memorandum of Association of an unlimited company.

1. The name of the proposed company :^b
2. The part of the United Kingdom, whether *England*, *Scotland*, or *Ireland*, in which the registered office^c of the company is proposed to be situate :
3. The objects for which the proposed company is to be established.^d

^a Definition of members, sec. 23.

^b Name must not be identical with that of another company, sec. 20.

^c Definition of registered office, sec. 34.

^d Form of Memorandum of Association, Form D, Second Schedule, p. 144.

Companies, &c. (Part I., Constitution, &c.)

11. The Memorandum of Association^a shall bear the same stamp as if it were a deed, and shall be signed by each subscriber^b in the presence of, and be attested by, one witness at the least, and that attestation shall be a sufficient attestation in *Scotland* as well as in *England* and *Ireland*: It shall, when registered,^c bind the company and the members^d thereof to the same extent as if each member^d had subscribed his name and affixed his seal thereto, and there were in the Memorandum^a contained, on the part of himself, his heirs, executors, and administrators, a covenant to observe all the conditions of such Memorandum,^a subject to the provisions of this Act.

^a Described by secs. 6, 8, 9, and 10. ^b Subscribers become members, sec. 23.

^c Registration of Memorandum of Association, sec. 17.

^d Definition of members, sec. 23.

12. Any company limited by shares^a may so far modify the conditions contained in its Memorandum of Association, if authorized to do so by its regulations^b as originally framed, or as altered by special resolution in manner hereinafter mentioned,^c as to increase its capital by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid-up shares into stock,^d but, save as aforesaid, and save as is hereinafter provided in the case of a change of name,^e no alteration shall be made by any company in the conditions contained in its Memorandum of Association.

^a Company limited by shares described by sec. 8.

^b Regulations of company, sec. 14.

^c Special resolution, sec. 51.

^d Notice to be given to Registrar, sec. 28.—Effect of conversion into stock, sec. 29.

^e Change of company's name, secs. 13 and 20.

13. Any company under this Act, with the sanction of a special resolution of the company passed in manner hereinafter mentioned,^a and with the approval of the Board of Trade testified

Power of companies to change name.

Companies, &c. (Part I., Constitution, &c.)

in writing under the hand of one of its secretaries or assistant-secretaries, may change its name, and upon such change being made the Registrar^b shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation^c altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the company, or render defective any legal proceedings instituted or to be instituted by or against the company, and any legal proceedings may be continued or commenced against the company by its new name that might have been continued or commenced against the company by its former name.

^a Special resolution, sec. 51. ^b Registrar defined by sec. 174.

^c Certificate of incorporation, sec. 18.

Articles of Association.

14. The Memorandum of Association may, in the case of a company limited by shares,^a and shall, in the case of a company limited by guarantee^b or unlimited,^c be accompanied, when registered, by Articles of Association^d signed by the subscribers^e to the Memorandum of Association, and prescribing such regulations for the company as the subscribers^e to the Memorandum of Association deem expedient. The Articles shall be expressed in separate paragraphs, numbered arithmetically. They may adopt all or any of the provisions contained in the table marked A in the First Schedule hereto.^f They shall, in the case of a company, whether limited by guarantee^b or unlimited,^c that has a capital divided into shares, state the amount of capital with which the company proposes to be registered; and in the case of a company, whether limited by guarantee^b or unlimited,^c that has not a capital divided into shares,^g state the number of members^h with which the company proposes to be registered, for the purpose of enabling the Registrarⁱ to determine the fees^j payable on registration. In a company limited

Regulations
to be pre-
scribed by
Articles of
Association.

Companies, &c. (Part I., Constitution, &c.)

by guarantee^b or unlimited,^c and having a capital divided into shares, each subscriber^a shall take one share at the least, and shall write opposite to his name in the Memorandum^k of Association the number of shares he takes.

^a Memorandum of Association of company limited by shares, sec. 8.—Regulations in default of a company limited by shares registering Articles of Association, sec. 15.

^b Memorandum of Association of company limited by guarantee, sec. 9.

^c The like of unlimited company, sec. 10.

^d Stamp, signature, and effect of Articles of Association, sec. 16.—Copies may be obtained by members, sec. 19.—Alteration of Articles of Association, sec. 50. ^e Number of subscribers, sec. 6. ^f Table A, p. 112.

^g In such company a register of directors must be kept and sent to Registrar, secs. 45 and 46. ^h Definition of members, sec. 23.

ⁱ Registrar defined by sec. 174. ^j Fees payable on registration, sec. 17.

^k Evidently intended for Articles, *see* Second Schedule, Forms C (p. 135) and D (p. 142), and compare sec. 8 with secs. 9, 10, and 14.

15. In the case of a company limited by shares,^a if the Memorandum of Association is not accompanied by Articles of Association,^b or in so far as the Articles^b do not exclude or modify the regulations contained in the Table marked A^c in the First Schedule hereto, the last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the company in the same manner, and to the same extent, as if they had been inserted in the Articles of Association,^b and the Articles^b had been duly registered.

^a Company limited by shares, described by sec. 8.

^b Articles of Association, sec. 14. ^c Table A, p. 112.

16. The Articles of Association^a shall be printed; they shall bear the same stamp as if they were contained in a deed, and shall be signed by each subscriber^a in the presence of, and be attested by, one witness at the least, and such attestation shall be a sufficient attestation in *Scotland* as well as in *England* and *Ireland*. When registered, they shall bind the company and the members^b thereof to the same extent as if each member^b had subscribed his

Stamp, signature, and effect of Articles of Association.

Companies, &c. (Part I., Constitution, &c.)

name and affixed his seal thereto, and there were in such Articles contained a covenant on the part of himself, his heirs, executors, and administrators, to conform to all the regulations contained in such Articles, subject to the provisions of this Act. And all moneys payable by any member^b to the company, in pursuance of the conditions and regulations of the company, or any of such conditions or regulations,^a shall be deemed to be a debt due from such member^b to the company, and in *England* and *Ireland* to be in the nature of a specialty debt.

^a Articles of Association and subscribers thereto, sec. 14.

^b Definition of members, sec. 23.

General Provisions.

17. The Memorandum of Association^a and the Articles of Association^b (if any) shall be delivered to the Registrar of Joint Stock Companies herein-after mentioned,^c who shall retain and register the same.^d There shall be paid to the Registrar^e by a company having a capital divided into shares, in respect of the several matters mentioned in the Table marked B in the First Schedule hereto,^e the several fees therein specified, or such smaller fees as the Board of Trade may from time to time direct; and by a company not having a capital divided into shares, in respect of the several matters mentioned in the Table marked C in the First Schedule^f hereto, the several fees therein specified, or such smaller fees as the Board of Trade may from time to time direct. All fees paid to the said Registrar^e in pursuance of this Act, shall be paid into the receipt of Her Majesty's Exchequer, and be carried to the account of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*.

Registration of Memorandum of Association and Articles of Association, with fees as in Table B.

^a Memorandum of Association, secs. 8, 9, and 10.

^b Articles of Association, secs. 14, 15, and 16.

^c Registrar defined by sec. 174.

^d Effect of registration, sec. 18.—Office copy of Memorandum and Articles of Association, part 5, sec. 174.

^e Table B, First Schedule, p. 132. ^f Table C, First Schedule, p. 133.

Companies, &c. (Part I., Constitution, &c.)

18. Upon the registration^a of the Memorandum of Association,^b and of the Articles of Association^c in cases where Articles of Association are required by this Act, or by the desire of the parties^e to be registered, the Registrar^d shall certify under his hand that the company is incorporated, and in the case of a limited company^e that the company is limited. The subscribers^f of the Memorandum of Association, together with such other persons as may from time to time become members^g of the company, shall thereupon be a body corporate by the name contained in the Memorandum of Association,^b capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal,^b with power to hold lands,ⁱ but with such liability on the part of the members^g to contribute to the assets of the company^j in the event of the same being wound up as is hereinafter mentioned. A certificate of the incorporation^k of any company given by the Registrar^d shall be conclusive evidence that all the requisitions of this Act in respect of registration^a have been complied with.

^a Registration of Memorandum and Articles of Association, sec. 17.

^b Memorandum of Association, secs. 8, 9, and 10.

^c Articles of Association, sec. 14. ^d Registrar defined by sec. 174.

^e Limited company, sec. 7.

^f Subscribers, sec. 6.

^g Definition of members, sec. 23.

^h Company's name to be engraved on seal, sec. 41.

ⁱ Power of certain companies to hold land qualified by sec. 21.

^j Liability of members, sec. 38.

^k Office copy of certificate may be obtained, part 5, sec. 174.

19. A copy of the Memorandum of Association,^a having annexed thereto the Articles of Association,^b if any, shall be forwarded to every member,^c at his request,^d on payment of the sum of one shilling or such less sum as may be prescribed by the company for each copy ;^e and if any company makes default in forwarding a copy of the Memorandum of Association^a and Articles of Association,^b if any, to a member,^c in pursuance of this section, the company so

Copies of Memorandum and Articles to be given to members.

Companies, &c. (Part I., Constitution, &c.)

making default shall for each offence incur a penalty^f not exceeding one pound.

^a Memorandum of Association, secs. 8, 9, and 10.

^b Articles of Association, sec. 14. ^c Definition of member, sec. 23.

^d See sec. 54 for copies of special resolutions.

^e Inspection and copies of Articles and Memorandum may be obtained at Registration-office, part 5, sec. 174.

^f Recovery and application of penalties, secs. 65 and 66.

20. No company shall be registered under a name identical with that by which a subsisting company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting company is in the course of being dissolved^a and testifies its consent in such manner as the Registrar^b requires; and if any company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting company is registered, or so nearly resembling the same as to be calculated to deceive, such first-mentioned company may, with the sanction of the Registrar,^b change its name, and upon such change being made the Registrar^b shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation^c altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the company, or render defective any legal proceedings instituted or to be instituted by or against the company, and any legal proceedings may be continued or commenced against the company by its new name that might have been continued or commenced against the company by its former name.

^a Dissolution of company, secs. 111 and 143. ^b Registrar defined by sec. 174.

^c Certificate of incorporation, sec. 18.

21. No company formed for the purpose of promoting art, science, religion, charity, or any other like object, not involving the acquisition of gain by the company or by the individual members^a thereof, shall, without the sanction

Prohibition
against cer-
tain compa-
nies holding
land.

Companies, &c. (Part II., Distribution of Capital.)

of the Board of Trade, hold more than two acres of land;^b but the Board of Trade may, by licence under the hand of one of their principal secretaries, or assistant-secretaries, empower any such company to hold lands in such quantity and subject to such conditions as they think fit.

^a Definition of members, sec. 23.

^b Other companies may hold lands, sec. 18.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

22. The shares or other interest of any member^a in a company under this Act shall be personal estate, capable of being transferred^b in manner provided by the regulations of the company,^c and shall not be of the nature of real estate, and each share shall, in the case of a company having a capital divided into shares, be distinguished by its appropriate number.^d

Nature of interest in company.

^a Definition of member, sec. 23.

^b Transfer by personal representative, sec. 24.

^c Regulations of the company, sec. 14.

^d Shares to be numbered in register of members, sec. 25.

23. The subscribers^a of the Memorandum of Association of any company under this Act shall be deemed to have agreed to become members of the company whose Memorandum they have subscribed,^b and upon the registration^c of the company shall be entered as members on the register of members hereinafter mentioned;^d and every other person who has agreed to become a member of a company under this Act, and whose name is entered on the register of

Definition of "member."

Companies, &c. (Part II., Distribution of Capital.)

members,^d shall be deemed to be a member of the company,

^a Subscribers of Memorandum of Association, sec. 6.

^b Their signature, sec. 11.

^c Registration of company, sec. 17.

^d Register of members, sec. 25.

24. Any transfer^a of the share or other interest of a deceased member^b of a company under this Act, made by his personal representative,^c shall, notwithstanding such personal representative may not himself be a member,^b be of the same validity as if he had been a member^b at the time of the execution of the instrument of transfer.

^a Transfer of shares, sec. 22.

^b Definition of member, sec. 23.

^c Shares to be considered as personal estate, sec. 22.

25. Every company under this Act shall cause to be kept in one or more books a register of its members,^a and there shall be entered therein^b the following particulars :—

Register of members.

1. The names and addresses, and the occupations, if any, of the members^a of the company, with the addition, in the case of a company having a capital divided into shares,^d of a statement of the shares held by each member,^c distinguishing each share by its number;^c and of the amount paid or agreed to be considered as paid on the shares of each member :^a
2. The date at which the name of any person was entered in the register as a member :
3. The date at which any person ceased to be a member :^a

And any company acting in contravention of this section shall incur a penalty^f not exceeding five pounds for every day during which its default in complying with the provisions of this section continues, and every director or manager of the company who shall knowingly

Companies, &c. (Part II., Distribution of Capital.)

and wilfully authorize or permit such contravention shall incur the like penalty.^f

▪ Definition of members, sec. 23. ^b Remedy for improper entry, sec. 35.
 ◦ Inspection and copies of register, sec. 32.—Closing of register, sec. 33.—
 Person making false and fraudulent entry guilty of misdemeanor, sec. 166.—
 Register to be evidence, sec. 37.—No notice of trust to be entered on register, sec. 30.

^d Register when capital converted into stock, sec. 29.

◦ Shares to be numbered, sec. 22.

^f Recovery and application of penalties, secs. 65 and 66.

26. Every company under this Act, and having a capital divided into shares, shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the ordinary general meeting,^a or if there is more than one ordinary meeting in each year, the first of such ordinary general meetings is held, are members^b of the company; and such list shall state the names, addresses, and occupations of all the members^b therein mentioned, and the number of shares held by each of them,^c and shall contain a summary specifying the following particulars:—

1. The amount of the capital of the company, and the number of shares into which it is divided :
2. The number of shares taken from the commencement of the company up to the date of the summary :
3. The amount of calls made on each share :
4. The total amount of calls received :
5. The total amount of calls unpaid :
6. The total amount of shares forfeited :
7. The names, addresses, and occupations of the persons who have ceased to be members^b since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the register,^d and shall be completed within seven days after such fourteenth day as is men-

Companies, &c. (Part II., Distribution of Capital.)

tioned in this section, and a copy shall forthwith be forwarded to the Registrar of Joint Stock Companies.*

^a General meeting must be held yearly, sec. 49.

^b Definition of members, sec. 23.

^c For variation when capital divided into stock, sec. 29.

^d Register of members, sec. 25. ^e Registrar defined by sec. 174. Inspection and copies of documents at Registration-office, part 5, sec. 174.

27. If any company under this Act, and having a capital divided into shares, makes default in complying with the provisions of this Act with respect to forwarding such list of members or summary as is hereinbefore mentioned^a to the Registrar, such company shall incur a penalty^b not exceeding five pounds for every day during which such default continues, and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

^a Sec. 26. ^b Recovery and application of penalties, secs. 65 and 66.

* Evidently a misprint; it should be "not forwarding a list of members to Registrar."

28. Every company under this Act, having a capital divided into shares, that has consolidated and divided its capital into shares of larger amount than its existing shares,^a or converted any portion of its capital into stock,^a shall give notice to the Registrar^b of Joint Stock Companies of such consolidation, division, or conversion, specifying the shares so consolidated, divided, or converted.

^a Pursuant to the provisions of sec. 12.

^b Registrar, sec. 174.

29. Where any company under this Act, and having a capital divided into shares, has converted any portion of its capital into stock,^a and given notice of such conversion to the Registrar,^b all the provisions of this Act which are applicable to shares only shall cease as to so much of

Penalty on company, &c. not keeping^a a proper register.

Company to give notice of consolidation or of conversion of capital into stock.

Effect of conversion of shares into stock.

Companies, &c. (Part II., Distribution of Capital.)

the capital as is converted into stock; and the register of members hereby required^a to be kept by the company, and the list of members to be forwarded^d to the Registrar, shall show the amount of stock held by each member^e in the list instead of the amount of shares and the particulars relating to shares hereinbefore required.

^a Pursuant to sec. 12.

^b Pursuant to sec. 28.

^c Register of members, sec. 25.

^d By sec. 26.

^e Definition of member, sec. 23.

30. No notice of any trust, expressed, implied, or constructive, shall be entered on the register,^a or be receivable by the Registrar,^b in the case of companies under this Act and registered in *England* or *Ireland*.

Entry of
trusts on
register.

^a Register described by sec. 25.

^b Registrar defined by sec. 174.

31. A certificate, under the common seal^a of the company, specifying any share or shares or stock held by any member^b of a company, shall be *prima facie* evidence of the title of the member^b to the share or shares or stock therein specified.

Certificate of
shares or
stock.

^a Common seal to have company's name engraved thereon.

^b Definition of member, sec. 23.

32. The register of members,^a commencing from the date of the registration of the company,^b shall be kept at the registered office of the company hereinafter mentioned :^c except when closed as hereinafter mentioned, it shall during business hours, but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member^d gratis, and to the inspection of any other person on the payment of one shilling, or such less sum as the company may prescribe, for each inspection; and every such member^d or other person may require a copy of such register,^a or of any part thereof, or of such list or summary of members as

Inspection of
register.

Companies, &c. (Part II., Distribution of Capital.)

is hereinbefore mentioned,* on payment of sixpence for every hundred words required to be copied: if such inspection or copy is refused, the company shall incur for each refusal a penalty^f not exceeding two pounds, and a further penalty not exceeding two pounds for every day during which such refusal continues, and every director and manager of the company who shall knowingly authorize or permit such refusal shall incur the like penalty;^f and in addition to the above penalty, as respects companies registered in *England* and *Ireland*, any judge sitting in chambers, or the Vice-Warden of the Stannaries,^g in the case of companies subject to his jurisdiction, may by order compel an immediate inspection of the register.^a

^a Register of members, sec. 25. ^b Registration of company, sec. 17.

^c Registered office, secs. 39 and 40. ^d Definition of member, sec. 23.

^e List and summary, sec. 26.

^f Recovery and application of penalties, secs. 65 and 66.

^g Jurisdiction of the Vice-Warden of the Stannaries, sec. 68.

33. Any company under this Act may, upon giving notice by advertisement in some newspaper circulating in the district in which the registered office^a of the company is situate, close the register of members^b for any time or times not exceeding in the whole thirty days in each year.

^a Registered office, secs. 39 and 40. ^b Register of members, sec. 25.

34. Where a company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase^a in such capital beyond the registered capital, and where a company has not a capital divided into shares, notice of any increase in the number of members^b beyond the registered number, shall be given to the Registrar^c in the case of an increase of capital, within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and in the case of an increase of members^b within fifteen days from the time at which such increase

Power to
close register.

Notice of
increase of
capital and of
members to
be given to
Registrar.

Companies, &c. (Part II., Distribution of Capital.)

of members^b has been resolved on or has taken place, and the Registrar^c shall forthwith record^d the amount of such increase of capital or members.^b If such notice is not given within the period aforesaid the company in default shall incur a penalty^e not exceeding five pounds for every day during which such neglect to give notice continues, and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

^a For the extra fees to be paid thereon, *see* First Schedule, Tables B and C, pp. 132, 133. ^b Definition of members, sec. 23. ^c Registrar, sec. 174.

^d Inspection and copies of documents at Registration-office, part 5, sec. 174. ^e Recovery and application of penalties, secs. 65 and 66.

35. If the name of any person is, without sufficient cause, entered in or omitted from the register of members^a of any company under this Act, or if default is made or unnecessary delay takes place in entering in the register^a the fact of any person having ceased to be a member^b of the company, the person or member^b aggrieved, or any member^b of the company, or the company itself, may, as respects companies registered in *England* or *Ireland*, by motion in any of Her Majesty's superior courts of law or equity, or by application to a judge sitting in chambers, or to the Vice-Warden of the Stannaries^c in the case of companies subject to his jurisdiction, and as respects companies registered in *Scotland* by summary petition to the Court of Session, or in such other manner as the said courts may direct, apply for an order of the court that the register^a may be rectified; and the court may either refuse such application, with or without costs, to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order^d for the rectification of the register,^a and may direct the company to pay all the costs of such motion, application, or petition, and any damages the party aggrieved may have sustained. The court may in any proceeding under this section decide on any question relating to the title^e

Remedy for
improper
entry or omis-
sion of entry
in register.

Companies, &c. (Part II., Liability of Members.)

of any person who is a party to such proceeding to have his name entered in or omitted from the register,^a whether such question arises between two or more members^b or alleged members,^b or between any members^b or alleged members^b and the company, and generally the court may in any such proceeding decide any question that it may be necessary or expedient to decide for the rectification of the register;^c provided that the court, if a court of common law, may direct an issue to be tried, in which any question of law may be raised, and a writ of error or appeal, in the manner directed by "The Common Law Procedure Act, 1854," shall lie.

^a Register of members, sec. 25.

^b Definition of member, sec. 23.

^c Jurisdiction of Vice-Warden of the Stannaries, sec. 68.

^d Form of order in certain cases, sec. 36.

^e Certificate of shares *prima facie* evidence of title, sec. 31.

36. Whenever any order^a has been made rectifying the register,^b in the case of a company hereby required to send a list of its members^c to the Registrar,^d the court shall, by its order, direct that due notice^e of such rectification be given to the Registrar.^d

Notice to Registrar of rectification register.

^a Pursuant to sec. 35.

^b Register of members, sec. 25.

^c List of members, sec. 26.

^d Registrar defined by sec. 174.

^e Inspection and copies of documents at Registration-office, part 5, sec. 174.

37. The register of members^a shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Register to be evidence.

^a Register of members, sec. 25.

Liability of Members.

38. In the event of a company formed under this Act being wound up,^a every present and past member^b of such company shall be liable to contribute to the assets of the company to an

Liability of present and past members of company.

Companies, &c. (Part II., Liability of Members.)

amount sufficient for payment of the debts and liabilities of the company, and the costs, charges, and expenses of the winding up,^c and for the payment of such sums as may be required for the adjustment of the rights of the contributories^d amongst themselves, with the qualifications following^e (that is to say) :—

1. No past member^b shall be liable to contribute to the assets of the company if he has ceased to be a member^b for a period of one year or upwards prior to the commencement of the winding up :^f
2. No past member^b shall be liable to contribute in respect of any debt or liability of the company contracted after the time at which he ceased to be a member :^b
3. No past member^b shall be liable to contribute to the assets of the company unless it appears to the court that the existing members^b are unable to satisfy the contributions required to be made by them in pursuance of this Act :
4. In the case of a company limited by shares,^g no contribution shall be required from any member^b exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member :^b
5. In the case of a company limited by guarantee,^h no contribution shall be required from any member^b exceeding the amount of the undertaking entered into on his behalf by the Memorandum of Association :^h
6. Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members^b upon any such policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of such policy or contract :
7. No sum due to any member^b of a company, in his

Companies, &c. (Part III., Management and Administration.)

- character of a member,^b by way of dividends, profits, or otherwise, shall be deemed to be a debt of the company, payable to such member^b in a case of competition between himself and any other creditor not being a member^b of the company; but any such sum may be taken into account, for the purposes of the final adjustment of the rights of the contributories^d amongst themselves.ⁱ

^a Winding up by the court, sec. 79.—Subject to its supervision, sec. 147.—Voluntarily, sec. 129.

^b Definition of member, sec. 23.

^c Payment of costs of winding up in priority to other claims, secs. 110 and 144.

^d Meaning of contributories, sec. 74.

^e Liability of members of existing companies registered pursuant to Part VII. of Act, part 5, sec. 196.—Liability of members of unregistered companies, sec. 200.

^f Commencement of winding up by the court, sec. 84.—The like voluntarily, sec. 130.

^g Company limited by shares, sec. 8.

^h Memorandum of Association of company limited by guarantee, sec. 9.

ⁱ See sec. 101.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors.

39. Every company under this Act shall have a registered office^a to which all communications and notices may be addressed. If any company under this Act carries on business without having such an office, it shall incur a penalty^b not exceeding five pounds for every day during which such business is so carried on.

Registered
office of
company.

^a How registered, sec. 40.

^b Recovery and application of penalties, secs. 65 and 66.

40. Notice of the situation of such registered office,^a and of any change therein, shall be given to the Registrar,^b and recorded by him. Until such notice is given the company shall not be

Notice of
situation of
registered
office.

Companies, &c. (Part III., Management and Administration.)

deemed to have complied with the provisions of this Act with respect to having a registered office.^a

^a Registered office, sec. 39.

^b Registrar defined by sec. 174.

41. Every limited company under this Act, whether
 Publication of name by a limited company. limited by shares^a or by guarantee,^b shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the company is carried on, in a conspicuous position, in letters easily legible,^c and shall have its name engraven in legible characters on its seal,^c and shall have its name mentioned in legible characters in all notices, advertisements, and other official publications of such company,^c and in all bills of exchange,^d promissory notes,^d indorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of such company,^e and in all bills of parcels, invoices, receipts, and letters of credit^e of the company.^e

^a Company limited by shares described by sec. 8.

^b Company limited by guarantee described by sec. 9.

^c Penalty for default, sec. 42.

^d Bills of exchange and promissory notes, sec. 47.

^e Person giving bill of exchange, &c., personally liable if company's name not mentioned, sec. 42.

42. If any limited company^a under this Act does not
 Penalties on non-publication of name. paint or affix, and keep painted or affixed, its name in manner directed by this Act,^b it shall be liable to a penalty^c not exceeding five pounds for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed, and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall be liable to the like penalty;^c and if any director, manager, or officer of such company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the company whereon its name is not so engraven as aforesaid,^b or issues or authorizes the issue of any notice, advertisement, or other official publication of such company, or signs or

Companies, &c. (Part III., Management and Administration.)

authorizes to be signed on behalf of such company any bill of exchange,^d promissory note,^d indorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner aforesaid,^b he shall be liable to a penalty^c of fifty pounds, and shall further be personally liable to the holder of any such bill of exchange,^d promissory note,^d cheque, or order for money or goods, for the amount thereof, unless the same is duly paid by the company.

^a Modes of limiting liability, sec. 7.^b See sec. 41.^c Recovery and application of penalties, secs. 65 and 66.^d Bills of exchange and promissory notes, sec. 47.

43. Every limited company^a under this Act shall keep a register of all mortgages and charges specifically affecting property of the company, and shall enter in such register in respect of each mortgage or charge a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge.^b If any property of the company is mortgaged or charged without such entry as aforesaid being made, every director, manager, or other officer of the company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty^c not exceeding fifty pounds. The register of mortgages required by this section shall be open to inspection by any creditor or member^d of the company at all reasonable times; and if such inspection is refused, any officer of the company refusing the same, and every director and manager of the company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty^c not exceeding five pounds, and a further penalty^c not exceeding two pounds for every day during which such refusal continues; and in addition to the above penalty,^c as respects companies registered in *England* and *Ireland*, any judge sitting in chambers, or the Vice-Warden of the Stanna-

Companies, &c. (Part III., Management and Administration.)

ries* in the case of companies subject to his jurisdiction, may by order compel an immediate inspection of the register.

- * Modes of limiting liability, sec. 7.
- b Person making fraudulent entry guilty of misdemeanor, sec. 166.
- c Recovery and application of penalties, secs. 65 and 66.
- d Definition of member, sec. 23.
- e Jurisdiction of Vice-Warden of the Stannaries, sec. 68.

44. Every limited banking company and every insurance^a company, and deposit, provident, or benefit society under this Act shall, before it commences business, and also on the first *Monday in February* and the first *Monday in August* in every year during which it carries on business, make a statement in the Form marked D in the First Schedule hereto, or as near thereto as circumstances will admit,^b and a copy of such statement shall be put up in a conspicuous place in the registered office^c of the company, and in every branch office or place where the business of the company is carried on, and if default is made in compliance with the provisions of this section, the company shall be liable to a penalty^d not exceeding five pounds for every day during which such default continues, and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.^d

Every member* and every creditor of any company mentioned in this section shall be entitled to a copy of the above-mentioned statement on payment of a sum not exceeding sixpence.

- * Definition of insurance company, sec. 3.
- b Form D, p. 134. Person making false and fraudulent entry guilty of misdemeanor, sec. 166.
- c Registered office, sec. 39.
- d Recovery and application of penalties, secs. 65 and 66.
- e Definition of member, sec. 23.

45. Every company under this Act, and not having a capital divided into shares, shall keep at its registered office^a a register containing the names and addresses and the occupations of its

List of
directors to
be sent to
Registrar.

Companies, &c. (Part III., Management and Administration.)

directors or managers, and shall send to the Registrar^b of Joint Stock Companies a copy of such register,^c and shall from time to time notify to the Registrar^b any change that takes place in such directors or managers.^d

^a Registered office, sec. 39.

^b Registrar and inspection of register described by sec. 174.

^c Penalty on default, sec. 46.

^d Person making fraudulent entry guilty of misdemeanor, sec. 166.

46. If any company under this Act, and not having a capital divided into shares, makes default in keeping a register of its directors or managers, or in sending a copy of such register to the Registrar in compliance with the foregoing rules,^a or in notifying to the Registrar any change that takes place in such directors or managers, such delinquent company shall incur a penalty^b not exceeding five pounds for every day during which such default continues, and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.^b

Penalty on company not keeping register of directors.

^a See sec. 45. ^b Recovery and application of penalties, secs. 65 and 66.

47. A promissory note or bill of exchange shall be deemed to have been made, accepted, or indorsed on behalf of any company under this Act, if made, accepted, or indorsed in the name^a of the company by any person acting under the authority of the company, or if made, accepted, or indorsed by or on behalf or on account of the company, by any person acting under the authority of the company.^b

Promissory notes and bills of exchange.

^a Name of company to be mentioned in bill of exchange, secs. 41 and 42.

^b Official liquidator may give bill on behalf of company, sec. 95.

48. If any company under this Act carries on business when the number of its members^a is less than seven^b for a period of six months after the number has been so reduced, every person who is a member^a of such company during the time that it so carries on business after such period

Prohibition against carrying on business with less than seven members.

Companies, &c. (Part III., Management and Administration.)

of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members,^a shall be severally liable for the payment of the whole debts of the company contracted during such time, and may be sued for the same, without the joinder in the action or suit of any other member.^a

^a Definition of member, sec. 23.

^b This is one of the causes for winding up, sec. 79.

Provisions for Protection of Members.

49. A general meeting^a of every company under this Act shall be held once at the least in every year.^b

General meeting of company.

^a Evidence of proceedings at general meeting, sec. 67.

^b Liquidators conducting voluntary winding up to summon annual meeting, sec. 139.

50. Subject to the provisions of this Act, and to the conditions contained in the Memorandum of Association,^a any company formed under this Act may, in general meeting,^b from time to time, by passing a special resolution^c in manner hereinafter mentioned, alter all or any of the regulations of the company contained in the Articles of Association^d or in the Table marked A in the First Schedule, where such Table is applicable to the company, or make new regulations to the exclusion of or in addition to all or any of the regulations of the company;^d and any regulations so made by special resolution^e shall be deemed to be regulations of the company of the same validity as if they had been originally contained in the Articles of Association,^d and shall be subject in like manner to be altered or modified by any subsequent special resolution.^c

Power to alter regulations by special resolution.

^a Memorandum of Association, secs. 8, 9, and 10.

^b Evidence of proceedings of meetings, sec. 67.

^c Special resolution defined by secs. 51, 52, and 53.

^d Articles of Association and Table A described by secs. 14 and 15.

^e Special resolution must be registered, sec. 53.

Companies, &c. (Part III., Management and Administration.)

51. A resolution passed by a company under this Act shall be deemed to be special whenever a resolution has been passed by a majority of not less than three-fourths of such members^a of the company for the time being entitled, according to the regulations of the company,^b to vote^c as may be present, in person or by proxy (in cases where by the regulations of the company proxies are allowed), at any general meeting of which notice^c specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such members^a for the time being entitled, according to the regulations of the company,^b to vote^c as may be present, in person or by proxy, at a subsequent general meeting, of which notice^c has been duly given, and held at an interval of not less than fourteen days, nor more than one month from the date of the meeting at which such resolution was first passed. At any meeting mentioned in this section, unless a poll is demanded by at least five members,^a a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same.^d Notice of any meeting shall, for the purposes of this section, be deemed to be duly given and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the company.^b In computing the majority under this section, when a poll is demanded, reference shall be had to the number of votes^c to which each member is entitled by the regulations^b of the company.^e

^a Definition of members, sec. 23. ^b Regulations of the company, sec. 14.

° See sec. 52. ^d Evidence of proceedings of meetings, sec. 67.

° Registry of special resolution, sec. 53.—Members entitled to copy of special resolution, sec. 54.

52. In^a default of any regulations as to voting, every member^b shall have one vote, and in default of any regulations as to summoning general meetings a meeting shall be held to be duly sum-

Provision where no regulations as to meetings.

Companies, &c. (Part III., Management and Administration.)

moned, of which seven days' notice in writing has been served on every member^b in manner in which notices are required to be served by the Table marked A in the First Schedule hereto,^c and in default of any regulations as to the persons to summon meetings^d five members^b shall be competent to summon the same, and in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members^b present to preside.

^a See sec. 51.

^b Definition of member, sec. 23.

^c See articles numbered 95, 96, and 97, in that Table, p. 126.

^d Liquidators to summon general meeting after voluntary winding up, sec. 139.

53. A copy of any special resolution^a that is passed by any company under this Act shall be printed and forwarded to the Registrar of Joint Stock Companies,^b and be recorded^b by him. If such copy is not so forwarded within fifteen days from the date of the confirmation of the resolution, the company shall incur a penalty^c not exceeding two pounds for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded, and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.^c

Registry of
special reso-
lutions.

^a Special resolution defined by sec. 51.

^b Registrar and inspection and copies of documents at Registrar's office, sec. 174.

^c Recovery and application of penalties, secs. 65 and 66.

54. Where Articles of Association^a have been registered, a copy of every special resolution^b for the time being in force shall be annexed to or embodied in every copy of the Articles of Association^a that may be issued^c after the passing of such resolution. Where no Articles of Association^a have been registered, a copy of any special resolution^b shall be forwarded in print to any member^d requesting the same on payment of one shilling, or such less sum as the com-

Copies of
special reso-
lutions.

Companies, &c. (Part III., Management and Administration.)

pany may direct. And if any company makes default in complying with the provisions of this section it shall incur a penalty^e not exceeding one pound for each copy in respect of which such default is made; and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.^e

^a Articles of Association, sec. 14. ^b Special resolution defined by sec. 51.

^c Members' right to copy of Memorandum and Articles of Association, sec. 19. ^d Definition of member, sec. 23.

^e Recovery and application of penalties, sec. 54.

55. Any company under this Act may, by instrument in writing under its common seal,^a empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in the United Kingdom; and every deed signed by such attorney on behalf of the company, and under his seal, shall be binding on the company, and have the same effect as if it were under the common seal^a of the company.

^a Company's name to be engraved on seal, sec. 41.

56. The Board of Trade may appoint one or more competent inspectors to examine into the affairs of any company^a under this Act, and to report thereon, in such manner as the Board may direct, upon the applications following^b (that is to say):—

Examination of affairs of company by inspectors.

1. In the case of a banking company that has a capital divided into shares, upon the application of members^c holding not less than one-third part of the whole shares of the company for the time being issued :
2. In the case of any other company that has a capital divided into shares, upon the application of members^c holding not less than one-fifth part of the whole shares of the company for the time being issued :

Companies, &c. (Part III., Management and Administration.)

3. In the case of any company not having a capital divided into shares, upon the application of members^c being in number not less than one-fifth of the whole number of persons for the time being entered on the register^d of the company as members.^e

^a Inspector may require production of books, and administer oaths, sec. 58.

^b Evidence in support of application and costs thereof, sec. 57.

^c Definition of members, sec. 23.

^d Register of members, sec. 25.

57. The application^a shall be supported by such evidence as the Board of Trade may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same. The Board of Trade may also require the applicants to give security for payment of the costs of the inquiry before appointing any inspector or inspectors.

Application
for inspection
to be sup-
ported by
evidence.

^a Under sec. 56.

58. It shall be the duty of all officers and agents of the company to produce for the examination of the inspectors^a all books and documents in their custody or power. Any inspector may examine upon oath the officers and agents of the company in relation to its business, and may administer such oath accordingly.^b If any officer or agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the company, he shall incur a penalty^c not exceeding five pounds in respect of each offence.

Inspection of
books.

^a Inspectors appointed under secs. 56 and 60.

^b Penalty for perjury, sec. 169.

^c Recovery and application of penalties, secs. 65 and 66.

59. Upon the conclusion of the examination^a the inspectors shall report their opinion to the Board of Trade; such report shall be written or printed, as the Board of Trade directs. A

Result of
examination
how dealt
with.

Companies, &c. (Part III., Management and Administration.)

copy shall be forwarded by the Board of Trade to the registered office^b of the company, and a further copy shall, at the request of the members^c upon whose application the inspection was made, be delivered to them, or to any one or more of them. All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members^c upon whose application the inspectors were appointed, unless the Board of Trade shall direct the same to be paid out of the assets of the company, which it is hereby authorized to do.

^a Pursuant to sec. 56.

^b Registered office, sec. 39.

^c Definition of members, sec. 23.

60. Any company under this Act may by special resolution^a appoint inspectors for the purpose of examining into the affairs of the company. The inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Board of Trade,^a with this exception, that, instead of making their report to the Board of Trade, they shall make the same in such manner and to such persons as the company in general meeting directs; and the officers and agents of the company shall incur the same penalties, in case of any refusal to produce any book or document hereby required to be produced to such inspectors, or to answer any question, as they would have incurred if such inspector had been appointed by the Board of Trade.

^a Special resolution, sec. 51.—Powers of inspectors appointed by Board of Trade, secs. 56, 58, and 59.

61. A copy of the report of any inspectors appointed under this Act,^a authenticated by the seal of the company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in such report.

Report of
inspectors to
be evidence.

^a Secs. 56 and 60.

Companies, &c. (Part III., Management and Administration.)*Notices.*

62. Any summons, notice, order, or other document, required to be served upon the company may be served by leaving the same, or sending it through the post^a in a prepaid letter addressed to the company, at their registered office.^b

Service of
notices on
company.

^a See sec. 63.

^b Registered office, sec. 39.

63. Any document to be served by post^a on the company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and in proving service of such document it shall be sufficient to prove that such document was properly directed, and that it was put as a prepaid letter into the post-office.

Rules as to
notices by
letter.

^a See sec. 62.

64. Any summons, notice, order, or proceeding requiring authentication by the company may be signed by any director, secretary, or other authorized officer of the company, and need not be under the common seal^a of the company, and the same may be in writing or in print, or partly in writing and partly in print.

Authentica-
tion of
notices of
company.

^a Reference to arbitration must be under common seal, sec. 72.

Legal Proceedings.

65. All offences under this act made punishable by any penalty may be prosecuted summarily before two or more justices, as to *England*, in manner directed by an Act passed in the Session holden in the eleventh and twelfth years of the reign of Her Majesty Queen Victoria, chapter forty-three, intituled, "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within *England* and *Wales* with respect to summary Convictions and

Recovery of
penalties.

Companies, &c. (Part III., Management and Administration.)

Orders," or any Act amending the same; and as to *Scotland*, before two or more justices or the sheriff of the county, in manner directed by the Act passed in the Session of Parliament holden in the seventeenth and eighteenth years of the reign of Her Majesty Queen Victoria, chapter one hundred and four, intituled, "An Act to amend and consolidate the Acts relating to Merchant Shipping," or any Act amending the same, as regards offences in *Scotland* against that Act, not being offences by that Act described as felonies or misdemeanors. And as to *Ireland*, in manner directed by the Act passed in the Session holden in the fourteenth and fifteenth years of the reign of Her Majesty Queen Victoria, chapter ninety-three, intituled, "An Act to consolidate and amend the Acts regulating the Proceedings of Petty Sessions, and the Duties of Justices of the Peace out of Quarter Sessions in *Ireland*," or any Act amending the same.

66. The justices or sheriff imposing any penalty^a under this Act may direct the whole or any part thereof to be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding the person upon whose information or at whose suit such penalty has been recovered; and, subject to such direction, all penalties shall be paid into the receipt of Her Majesty's Exchequer, in such manner as the Treasury may direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom.

^a Power of justices or sheriff to impose penalty, sec. 65.

67. Every company under this Act shall cause minutes of all resolutions and proceedings of general meetings of the company, and of the directors or managers of the company in cases where there are directors or managers, to be duly entered in books to be from time to time provided for the purpose; and any such minute as aforesaid, if purporting to be

D

Companies, &c. (Part III., Management and Administration.)

signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings; and until the contrary is proved, every general meeting of the company or meeting of directors or managers in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had, to have been duly passed and had, and all appointments of directors, managers, or liquidators^a shall be deemed to be valid, and all acts done by such directors, managers, or liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments^a or qualifications.^b

^a Appointment of liquidators, sec. 133.

^b Books of the company on winding up to be evidence as between contributories, sec. 154.—Person making fraudulent entries guilty of misdemeanor, sec. 166.

68. In the case of companies under this Act, and engaged in working mines within and subject to the jurisdiction of the Stannaries, the court^a of the Vice-Warden of the Stannaries shall have and exercise the like jurisdiction and powers,^b as well on the common law as on the equity side thereof, which it now possesses by custom, usage, or statute, in the case of unincorporated companies, but only so far as such jurisdiction or powers are consistent with the provisions of this Act and with the constitution of companies as prescribed or required by this Act; and for the purpose of giving fuller effect to such jurisdiction in all actions, suits, or legal proceedings instituted in the said court, in causes or matters whereof the court has cognizance, all process issuing out of the same, and all orders, rules, demands, notices, warrants, and summonses required or authorized by the practice of the court to be served on any company, whether registered or not registered,^c or any member^d or contributory^e

Jurisdiction
of Vice-
Warden of
Stannaries.

Companies, &c. (Part III., Management and Administration.)

thereof, or any officer, agent, director, manager, or servant thereof, may be served in any part of *England* without any special order of the Vice-Warden* for that purpose, or by such special order may be served in any part of the United Kingdom of *Great Britain and Ireland*, or in the adjacent islands, parcel of the dominions of the crown, on such terms and conditions as the court shall think fit; and all decrees, orders, and judgments,^f of the said court made or pronounced in such causes or matters may be enforced in the same manner in which decrees, orders, and judgments of the court may now by law be enforced, whether within or beyond the local limits of the Stannaries; and the seal of the said court, and the signature of the Registrar thereof, shall be judicially noticed by all other courts and judges in *England*, and shall require no other proof than the production thereof. The Registrar of the said court, or the Assistant-Registrar, in making sales under any decree or order of the court shall be entitled to the same privilege of selling by auction or competition without a licence, and without being liable to duty, as a judge of the Court of Chancery is entitled to in pursuance of the Acts in that behalf.

^a Definition of court in winding up of companies within the Stannaries, sec. 81. ^b Power to enforce orders of Vice-Warden, sec. 120.*

^c Unregistered companies, sec. 199. ^d Definition of member, sec. 23.

^e Meaning of contributory, sec. 74. ^f Appeal therefrom, sec. 124.

* Misprint in Act, Vice-Warden.

69. Where a limited company^a is plaintiff or pursuer in any action, suit, or other legal proceeding, any judge having jurisdiction in the matter may, if it appears by any credible testimony that there is reason to believe that if the defendant be successful in his defence the assets of the company will be insufficient to pay his costs, require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

Provision as to costs in actions brought by certain limited companies.

^a Limited company described by sec. 7.

Companies, &c. (Part III., Management and Administration.)

70. In any action or suit brought by the company against any member^a to recover any call or other moneys due from such member^a in his character of member,^a it shall not be necessary to set forth the special matter, but it shall be sufficient to allege that the defendant is a member^a of the company, and is indebted to the company in respect of a call made or other moneys due whereby an action or suit hath accrued to the company.^b

^a Definition of member, sec. 23.

^b Member cannot set off debts due to him in certain cases, part 7, secs. 38 and 101.

Alteration of Forms.

71. The Forms set forth in the Second Schedule^a hereto, or Forms as near thereto as circumstances admit, shall be used in all matters to which such Forms refer; the Board of Trade may from time to time make such alterations in the Tables and Forms contained in the First Schedule^b hereto, so that it does not increase the amount of fees payable to the Registrar^c in the said Schedule mentioned, and in the Forms in the second Schedule,^a or make such additions to the last-mentioned Forms, as it deems requisite. Any such Table or Form, when altered, shall be published in the *London Gazette*, and upon such publication being made such Table or Form shall have the same force as if it were included in the Schedule to this Act, but no alteration made by the Board of Trade in the Table marked A contained in the First Schedule^b shall affect any company registered prior to the date of such alteration, or repeal, as respects such company, any portion of such Table.^d

^a Second Schedule, p. 135.

^b First Schedule, p. 112.

^c Registrar defined by sec. 174.

^d This section has not been acted upon.

Companies, &c. (Part IV., Winding up.)

Arbitrations.

72. Any company under this Act may from time to time, by writing under its common seal,^a agree to refer and may refer to arbitration, in accordance with "The Railway Companies Arbitration Act, 1859,"^b any existing or future difference, question, or other matter whatsoever in dispute between itself and any other company or person, and the companies parties to the arbitration may delegate to the person or persons to whom the reference is made, power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by the directors or other managing body of such companies.

^a Common seal to have name of company engraved on it, sec. 42.

^b See next section.

73. All the provisions of "The Railway Companies Arbitration Act, 1859," shall be deemed to apply to arbitrations between companies and persons in pursuance of this Act; and in the construction of such provisions "the companies" shall be deemed to include companies authorized by this Act^a to refer disputes to arbitration.

^a See sec. 72.

PART IV.

WINDING UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

74. The term "contributory" shall mean every person liable^a to contribute to the assets of a company under this Act,^b in the event of the same being wound up.^c It shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to

Meaning of
"contribu-
tory."

Companies, &c. (Part IV., Winding up.)

the final determination of such person, include any person alleged to be a contributory.^a

^a Liability of present and past members, sec. 38.—Liability of members of an existing company registered under Act, part 5, sec. 196.—Liability of members of unregistered companies, sec. 200.—Nature of liability of contributory, sec. 75.—Liability of members in companies limited by guarantee, having a capital divided into shares, secs. 90 and 134.

^b Contributory in case of death, sec. 76.—Of bankruptcy, sec. 77.—Of marriage, sec. 78. ^c Winding up by the court, sec. 79.—Voluntarily, sec. 129.—Subject to supervision, sec. 147. ^d List of contributories winding up by the court, sec. 98; and voluntarily, part 8, sec. 133.

75. The liability of any person to contribute^a to the assets of a company under this Act, in the event of the same being wound up, shall be deemed to create a debt (in *England* and *Ireland* of the nature of a specialty) accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned,^b for enforcing such liability; and it shall be lawful in the case of the bankruptcy^c of any contributory to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

^a Definition of contributory, sec. 74.

^b Calls on contributories of company winding up by the court, sec. 102; subject to supervision, sec. 151; and voluntarily, part 9, sec. 133.

^c Contributories in cases of bankruptcy, sec. 77.

76. If any contributory^a dies either before or after he has been placed on the list of contributories hereinafter mentioned,^b his personal representatives, heirs, and devisees shall be liable in a due course of administration to contribute to the assets of the company in discharge of the liability of such deceased contributory,^c and such personal representatives, heirs, and devisees shall be deemed to be contributories accordingly.^b

^a Meaning of contributory, sec. 74. ^b List of contributories of company winding up by the court, sec. 98; voluntarily, part 8, sec. 133.—Representative contributories to be distinguished from contributories in their own right, sec. 99.—Insertion of liens and devisees on list, sec. 99.

Companies, &c. (Part IV., Winding up.)

77. If any contributory^a becomes bankrupt, either before or after he has been placed on the list of contributories,^b his assignees shall be deemed to represent such bankrupt for all the purposes of the winding up, and shall be deemed to be contributories accordingly,^b and may be called upon to admit to proof against the estate of such bankrupt,^c or otherwise to allow to be paid out of his assets in due course of law, any moneys due from such bankrupt in respect of his liability to contribute to the assets of the company being wound up; and for the purposes of this section any person who may have taken the benefit of any Act for the relief of insolvent debtors before the eleventh day of *October* one thousand eight hundred and sixty-one shall be deemed to have become bankrupt.

^a Meaning of contributory, sec. 74.

^b List of contributories of company winding up by the court, sec. 98; voluntarily, part 8, sec. 133.—Representative contributories to be distinguished from contributories in their own right, sec. 99.

^c Value of liability to future calls may be proved, sec. 75.

78. If any female contributory^a marries, either before or after she has been placed on the list of contributories,^b her husband shall during the continuance of the marriage be liable to contribute to the assets of the company the same sum as she would have been liable to contribute if she had not married, and he shall be deemed to be a contributory accordingly.

^a Meaning of contributory, sec. 74.

^b List of contributories of company winding up by the court, sec. 98; voluntarily, part 8, sec. 133.—Representative contributories to be distinguished from contributories in their own right, sec. 99.

Winding up by Court.

79. A company under this Act may be wound up by the court^a as hereinafter defined, under the following circumstances^b (that is to say):—

1. Whenever the company has passed a special resolution^c requiring the company to be wound up by the court:

Circumstances under which company may be wound up by court.

Companies, &c. (Part IV., Winding up.)

2. Whenever the company does not commence its business within a year from its incorporation,^d or suspends its business for the space of a whole year :
3. Whenever the members are reduced in number to less than seven :^e
4. Whenever the company is unable to pay its debts :^f
5. Whenever the court^a is of opinion that it is just and equitable that the company should be wound up.

^a Definition of the court, sec. 81.

^b Application to wind up to be made by petition, sec. 82.

^c Definition of special resolution, sec. 51.

^d Incorporation of company to date from Registrar's certificate, sec. 10.

^e Prohibition against and liability for carrying on business with less than seven members, sec. 43. ^f When company unable to pay its debts, sec. 80.

80. A company under this Act shall be deemed unable to pay its debts,^a

Company
when deemed
unable to pay
its debts.

1. Whenever a creditor, by assignment or otherwise, to whom the company is indebted, at law or in equity, in a sum exceeding fifty pounds then due, has served on the company, by leaving the same at their registered office,^b a demand under his hand requiring the company to pay the sum so due, and the company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor :
2. Whenever, in *England* and *Ireland*, execution or other process issued on a judgment, decree, or order obtained in any court in favour of any creditor, at law or in equity, in any proceeding instituted by such creditor against the company, is returned unsatisfied in whole or in part :
3. Whenever, in *Scotland*, the induciæ of a charge

Companies, &c. (Part IV., Winding up.)

for payment on an extract decree, or an extract registered bond, or an extract registered protest have expired without payment being made :

4. Whenever it is proved to the satisfaction of the court^c that the company is unable to pay its debts.

^a Cause for winding up, part 4, sec. 79.

^b Definition of registered office, secs. 39 and 40.

^c Definition of the court, sec. 81.

81. The expression "the court,"^a as used in this part of this Act,^b shall mean the following authorities (that is to say) :—

Definition of
"the court."

In the case of a company engaged in working any mine within and subject to the jurisdiction of the Stannaries^c—the court of the Vice-Warden of the Stannaries,^d unless the Vice-Warden certifies that in his opinion the company would be more advantageously wound up in the High Court of Chancery, in which case "the court" shall mean the High Court of Chancery :

In the case of a company registered in *England* that is not engaged in working any such mine as aforesaid —the High Court of Chancery :

In the case of a company registered in *Ireland*—the Court of Chancery in *Ireland* :

In all cases of companies registered in *Scotland*—the Court of Session in either division thereof :

Provided that where the Court of Chancery in *England* or *Ireland* makes an order for winding up a company under this Act, it may, if it thinks fit, direct all subsequent proceedings for winding up the same to be had in the Court of Bankruptcy having jurisdiction in the place in which the registered office^e of the company is situate ; and thereupon such last-mentioned Court of Bankruptcy shall, for the purposes of winding up the company, be deemed to be "the court" within the

Companies, &c. (Part IV., Winding up.)

meaning of the Act, and shall have for the purposes of such winding up all the powers of the High Court of Chancery, or of the Court of Chancery in *Ireland*, as the case may require

^a Power of court, sec. 83.

^b Provisions respecting the court in the case of unregistered companies, part 1, sec. 199.

^c Jurisdiction of Stannaries Court, sec. 68.

^d Hearing of petition before Vice-Warden, sec. 83.—Other provisions respecting Court of Stannaries, secs. 108, 116, 120, 124, 125, and 172.

^e Definition of registered office, secs. 39 and 40.

82. Any application to the court^a for the winding up of a company under this Act shall be done by petition;^b it may be presented by the company, or by any one or more creditor or creditors, contributory^c or contributories^c of the company, or by all or any of the above parties, together or separately;^d and every order which may be made on any such petition^e shall operate in favour of all the creditors and all the contributories^e of the company in the same manner as if it had been made upon the joint petition of a creditor and a contributory.^e

Application for winding up to be made by petition.

^a Definition of the court, sec. 81.

^b Presentation of petition to be commencement of winding up, sec. 84.

^c Meaning of contributory, sec. 74.

^d After presentation of petition court may restrain proceedings against the company, and appoint provisional official liquidator, sec. 85.

^e Copy of order to be forwarded to Registrar of Joint Stock Companies, sec. 88.—Order to be stay of proceedings, sec. 87.—Court may stay winding up proceedings after order made, sec. 89.

83. Any judge of the High Court of Chancery may do in chambers any act which the court^a is hereby authorized to do; and the Vice-Warden of the Stannaries may direct that a petition for winding up a company be heard by him at such time and at such place within the jurisdiction of the Stannaries, or within or near to the place where the registered office^b of the company is situate, as he may deem to be convenient to the parties concerned, or (with the consent of the parties concerned) at any place in *England*; and all orders made thereupon shall have the same force and

Power of court.

Companies, &c. (Part IV., Winding up.)

effect as if they had been made by the Vice-Warden sitting at *Truro* or elsewhere within the jurisdiction of the court, and all parties and persons summoned to attend at the hearing of any such petition shall be compellable to give their attendance before the Vice-Warden by like process and in like manner as at the hearing of any cause or matter at the usual sitting of the said court; and the Registrar of the court may, subject to exception or appeal to the Vice-Warden as heretofore used, do and exercise such and the like acts and powers in the matter of winding up as he is now used to do and exercise in a suit on the equity side of the said court.

^a Definition of the court, sec. 81.

^b Definition of registered office, secs. 39 and 40.

84. A winding up of a company by the court^a shall be deemed to commence^b at the time of the presentation of the petition for the winding up.^c

Commencement of winding up by court.

^a Definition of the court, sec. 81.

^b Commencement of winding up voluntarily, sec. 130.

^c Dispositions after commencement of winding up voidable, sec. 153.—Executions after commencement void, sec. 163.

85. The court^a may, at any time after the presentation of a petition for winding up a company under this Act, and before making an order for winding up the company, upon the application of the company, or of any creditor or contributory^b of the company, restrain further proceedings in any action, suit, or proceeding against the company, upon such terms as the court thinks fit. The court may also at any time after the presentation of such petition, and before the first appointment of liquidators, appoint provisionally an official liquidator^c of the estate and effects of the company.

Court may grant injunction.

^a Definition of the court, sec. 81. ^b Meaning of contributory, sec. 74.

^c Appointment of official liquidator, sec. 92.—His powers, sec. 95.

Companies, &c. (Part IV., Winding up.)

86. Upon hearing the petition the court^a may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make an interim order, or any other order that it deems just.^b

Course to be pursued by court on hearing petition.

^a Definition of the court, sec. 81.

^b Court may regard wishes of creditors and contributories, sec. 91.—It may grant injunction against proceedings and appoint provisional liquidator, sec. 85.—Rehearings of and appeal from orders, sec. 124.—Court may adopt proceedings of voluntary winding up by order to wind up compulsorily, sec. 146.

87. When an order has been made for winding up a company under this Act, no suit, action, or other proceeding shall be proceeded with or commenced against the company, except with the leave of the court^a and subject to such terms as the court^a may impose.

Actions and suits to be stayed after order for winding up.

^a Definition of the court, sec. 81.

88. When an order has been made for winding up a company under this Act, a copy of such order shall forthwith be forwarded by the company to the Registrar^a of Joint Stock Companies, who shall make a minute thereof in his books relating to the company.

Copy of order to be forwarded to Registrar.

^a Registrar described by part 8, sec. 174.

89. The court^a may at any time after an order has been made for winding up a company, upon the application by motion of any creditor or contributory^b of the company, and upon proof to the satisfaction of the court^a that all proceedings in relation to such winding up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

Power of court to stay proceedings.

^a Definition of the court, sec. 81. ^b Meaning of contributory, sec. 74

Companies, &c. (Part IV., Winding up.

90. When an order has been made for winding up a company limited by guarantee^a and having a capital divided into shares, any share capital that may not have been called up shall be deemed to be assets of the company, and to be a debt (in *England* and *Ireland* of the nature of a specialty) due to the company from each member^b to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the court.^c

^a Company limited by guarantee described by sec. 9.

^b Definition of member, sec. 23.

^c Definition of the court, sec. 81.—Similar provision when company wound up voluntarily, sec. 134.

91. The court^a may, as to all matters relating to the winding up, have regard to the wishes of the creditors or contributories,^b as proved to it by any sufficient evidence, and may, if it thinks it expedient, direct meetings of the creditors or contributories^b to be summoned, held, and conducted in such manner as the court^a directs, for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the court.^a In the case of creditors, regard is to be had to the value of the debts due to each creditor, and in the case of contributories^b to the number of votes conferred on each contributory^b by the regulations^c of the company.^d

^a Definition of the court, sec. 81. ^b Meaning of contributory, sec. 74.

^c Articles of Association, sec. 14.

^d Similar meetings when company wound up voluntarily, sec. 139.—Under supervision of the court, sec. 149.

Official Liquidators.

92. For the purpose of conducting the proceedings in winding up a company, and assisting the court^a therein, there may be appointed a person or persons to be called an official liquidator or official liquidators;^b and the court^a having

Appointment
of official
liquidator.

Companies, &c. (Part IV., Winding up.)

jurisdiction may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of official liquidator or official liquidators.^c In all cases if more persons than one are appointed to the office of official liquidator,^b the court^a shall declare whether any act hereby required or authorized to be done by the official liquidator^b is to be done by all or any one or more of such persons. The court^a may also determine whether any and what security is to be given by any official liquidator on his appointment; if no official liquidator is appointed, or during any vacancy in such appointment,^c all the property of the company shall be deemed to be in the custody of the court.^a

^a Definition of the court, sec. 81.

^b Appointment of provisional liquidator, sec. 85.—Appointment of liquidators under voluntary winding up as official liquidators, sec. 152.

^c Resignation, removal, and compensation of official liquidators, sec. 93.—Their style and duties, sec. 94.—Their powers, secs. 95 and 96.—Appointment of solicitor to official liquidator, sec. 97.

93. Any official liquidator may resign or be removed by the court^a on due cause shown. And any vacancy^b in the office of an official liquidator appointed by the court^a shall be filled by the court.^a There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the court^a may direct; and if more liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the court^a directs.

Resignations, removals, filling up vacancies, and compensation.

^a Definition of the court, sec. 81.

^b During vacancy company's property vested in court, sec. 92.

94. The official liquidator or liquidators shall be described by the style of the official liquidator, or official liquidators, of the particular company in respect of which he is or they are appointed,^a and not by his or their individual name or names; he or they shall take into his or their custody,

Style and duties of official liquidator.

Companies, &c. (Part IV., Winding up.)

or under his or their control, all the property, effects, and things in actions to which the company is or appears to be entitled, and shall perform such duties in reference to the winding up of the company as may be imposed by the court.^b

^a Provision in the case of unregistered companies, sec. 203.

^b Definition of the court, sec. 81.

95. The official liquidator shall have power, with the sanction of the court,^a to do the following things:—

To bring or defend any action, suit, or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the company:^b

To carry on the business of the company, so far as may be necessary for the beneficial winding up of the same:

To sell the real and personal and heritable and moveable property, effects, and things in action^c of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels:

To do all acts, and to execute, in the name and on behalf of the company, all deeds, receipts,^d and other documents, and for that purpose, to use, when necessary, the company's seal:

To prove, rank, claim, and draw a dividend in the matter of the bankruptcy or insolvency or sequestration of any contributory,^e for any balance against the estate of such contributory,^e and to take and receive dividends in respect of such balance, in the matter of bankruptcy or insolvency or sequestration, as a separate debt due from such bankrupt or insolvent, and rateably with the other separate creditors:

To draw, accept, make, and indorse any bill of exchange or promissory note in the name and on behalf of the company; also to raise upon the

Companies, &c. (Part IV., Winding up.)

security of the assets of the company from time to time any requisite sum or sums of money; and the drawing, accepting, making, or indorsing of every such bill of exchange or promissory note as aforesaid on behalf of the company shall have the same effect with respect to the liability of such company as if such bill or note had been drawn, accepted, made, or indorsed by or on behalf of such company in the course of carrying on the business thereof:

To take out, if necessary, in his official name, letters of administration^f to any deceased contributory,^g and to do in his official name^h any other act that may be necessary for obtaining payment of any moneys due from a contributory^g or from his estate, and which act cannot be conveniently done in the name of the company; and in all cases where he takes out letters of administration, or otherwise uses his official name for obtaining payment of any moneys due from a contributory,^g such moneys shall, for the purpose of enabling him to take out such letters or recover such moneys, be deemed to be due to the official liquidator himself:

To do and execute all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

^a Definition of the court, sec. 81.

^b See sec. 203 as to unregistered companies.

^c Assignee of things in action may bring action in his own name, sec. 157.

^d Court may order payment of moneys into court instead of to official liquidator, sec. 103.

^e Contributory in the case of bankruptcy, sec. 77.

^f When necessary to take out letters of administration, sec. 105.

^g Meaning of contributory, sec. 74.

^h Official name of official liquidators, sec. 94.

96. The court^a may provide by any order that the official liquidator may exercise any of the above powers without the sanction or intervention of the court,^a and where an official

Discretion of
official
liquidator.

Companies, &c. (Part IV., Winding up.)

liquidator^b is provisionally appointed may limit and restrict his powers by the order appointing him.

^a Definition of the court, sec. 81.

^b Provisional official liquidator, secs. 85 and 92.

97. The official liquidator may, with the sanction of the court,^a appoint a solicitor or law agent to assist him in the performance of his duties.

Appointment of solicitor to official liquidator.

^a Definition of the court, sec. 81.

Ordinary Powers of Court.

98. As soon as may be after making an order for winding up the company, the court^a shall settle a list of contributories,^b with power to rectify the register of members^c in all cases where such rectification is required in pursuance of this Act, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities.

Collection and application of assets.

^a Definition of the court, sec. 81.
sec. 74.—His liability, sec. 75.

^b Meaning of contributory,

^c Register of members, sec. 25.

99. In settling the list of contributories^a the court^b shall distinguish between persons who are contributories in their own right and person who are contributories as being representatives of or being liable to the debts of others.^c It shall not be necessary, where the personal representative of any deceased contributory is placed on the list, to add the heirs or devisees of such contributory, nevertheless such heirs or devisees may be added as and when the court thinks fit.

Provision as to representative contributories.

^a Pursuant to sec. 98.

^b Definition of the court, sec. 81.

^c Provisions defining representative contributories, secs. 76, 77, and 78.

100. The court^a may, at any time after making an order for winding up a company, require any contributory^b for the time being settled on the list of contributories,^c trustee, receiver, banker, or agent, or officer of the company, to pay,

Power of court to require delivery of property.

E

Companies, &c. (Part IV., Winding up.)

deliver, convey, surrender, or transfer forthwith, or within such time as the court directs, to or into the hands of the official liquidator,^d any sum or balance, books, papers, estate, or effects which happen to be in his hands for the time being, and to which the company is *primâ facie* entitled.^e

^a Definition of the court, sec. 81. ^b Meaning of contributory, sec. 74.

^c List of contributories, sec. 98. ^d Official liquidator, sec. 92.

^e Official liquidator's right to company's property, sec. 94.—Court may summon person suspected of having company's property in his possession, sec. 115.

101. The court^a may, at any time after making an order for winding up the company, make an order on any contributory^b for the time being settled on the list of contributories,^c directing payment to be made, in manner in the said order mentioned, of any moneys due from him or from the estate of the person whom he represents to the company, exclusive of any moneys which he or the estate of the person whom he represents may be liable to contribute by virtue of any call made or to be made by the court^a in pursuance of^d this part of this Act; and it may, in making such order, when the company is not limited, allow to such contributory^b by way of set-off any moneys due to him or the estate which he represents from the company on any independent dealing or contract with the company, but not any moneys due to him as a member^e of the company in respect of any dividend or profit.^f

Provided that when all the creditors of any company whether limited or unlimited^g are paid in full, any moneys due on any account whatever to any contributory^b from the company may be allowed to him by way of set-off against any subsequent call or calls.

^a Definition of the court, sec. 81. ^b Meaning of contributory, sec. 74.

^c List of contributories, sec. 98. ^d Power of court to make calls, sec. 102.

^e Definition of member, sec. 23.

^f Explanation of this restriction, part 7, sec. 38.

^g Limited companies described by secs. 7, 8, and 9.—Unlimited, by sec. 10.

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102. The court^a may, at any time after making an order for winding up a company, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof^b by all or any of the contributories^c for the time being settled on the list of contributories,^d to the extent of their liability,^e for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding it up, and for the adjustment of the rights of the contributories^c amongst themselves,^f and it may, in making a call, take into consideration the probability that some of the contributories^c upon whom the same is made may partly or wholly fail to pay their respective portions of the same.^f

Power of
court to
make calls.

^a Definition of the court, sec. 81.

^b Power to order contributories in *Scotland* to pay calls, sec. 121.

^c Meaning of contributory, sec. 74. ^d List of contributories, sec. 98.

^e Liability of contributories, secs. 38 and 90.

^f Contributories' right of set-off, sec. 101.—Order on contributory conclusive evidence, sec. 106.

103. The court^a may order any contributory,^b purchaser, or other person from whom money is due to the company to pay the same into the Bank of *England* or any branch thereof to the account of the official liquidator instead of to the official liquidator, and such order may be enforced in the same manner as if it had directed payment to the official liquidator.

Power of
court to
order pay-
ment into
Bank.

^a Definition of the court, sec. 81. ^b Meaning of contributory, sec. 74.

104. All moneys, bills, notes, and other securities paid and delivered into the Bank of *England* or any branch thereof^a in the event of a company being wound up by the court,^b shall be subject to such order and regulation for the keeping of the account of such moneys and other effects, and for the payment and delivery in, or investment and payment and delivery out of the same as the court^b may direct.

Regulation of
account with
court.

^a Pursuant to sec. 103.

^b Definition of the court, sec. 81.

Companies, &c. (Part IV., Winding up.)

105. If any person made a contributory^a as personal representative of a deceased contributory^b makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering^c the personal and real estates of such deceased contributory,^b or either of such estates, and of compelling payment thereof of the moneys due.

^a Meaning of contributory, sec. 74. ^b Contributory in case of death, sec. 76.

^c In the official name of the official liquidator, sec. 95.

106. Any order made by the court^a in pursuance of this Act upon any contributory^b shall, subject to the provisions herein contained^c for appealing against such order, be conclusive evidence that the moneys, if any, thereby appearing to be due or ordered to be paid are due, and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons, and in all proceedings whatsoever, with the exception of proceedings taken against the real estate of any deceased contributory,^b in which case such order shall only be *prima facie* evidence for the purpose of charging his real estate, unless his heirs or devisees were on the list of contributories^d at the time of the order being made.

^a Definition of the court, sec. 81. ^b Meaning of contributory, sec. 74.

—Contributory in the case of death, sec. 76. ^c Appeals, sec. 124.

^d Devisees or heirs on list of contributories, sec. 99.

107. The court^a may fix a certain day or certain days on or within which creditors of the company are to prove their debts or claims,^b or to be excluded from the benefit of any distribution made before such debts are proved.

^a Definition of the court, sec. 81.

^b Every description of debts must be proved, sec. 158.

108. If in the course of proving the debts and claims of creditors in the court of the Vice-Warden of the Stanuaries^a any debt or claim is disputed by the official liquidator^b or by any creditor or

Proceedings
in the court
of the Vice-
Warden of

Companies, &c. (Part IV., Winding up.)

the Stannaries on proof of debts. contributory,^c or appears to the court to be open to question, the court shall have power,^d subject to appeal as hereinafter provided,^e to adjudicate upon it, and for that purpose^f the said court shall have and exercise all needful powers of inquiry touching the same by affidavit or by oral examination of witnesses or of parties, whether voluntarily offering themselves for examination or summoned to attend by compulsory process of the court, or to produce documents before the court;^g and the court shall also have power, incidentally, to decide on the validity and extent of any lien or charge claimed by any creditor on any property of the company in respect of such debt, and to make declarations of right, binding on all persons interested;^h and for the more satisfactory determination of any question of fact, or mixed question of law and fact arising on such inquiry, the Vice-Warden shall have power, if he thinks fit, to direct and settle any action or issue to be tried either on the common law side of his court, or by a common or special jury, before the justices of assize in and for the counties of *Cornwall* or *Devon*, or at any sitting of one of the superior courts in *London* or *Middlesex*, which action or issue shall accordingly be tried in due course of law, and without other or further consent of parties; and the finding of the jury in such action or issue shall be conclusive of the facts found, unless the judge who tried it makes known to the Vice-Warden that he was not satisfied with the finding, or unless it appears to the Vice-Warden that, in consequence of miscarriage, accident, or the subsequent discovery of fresh material evidence, such finding ought not to be conclusive.

^a Companies to be wound up in the Court of Stannaries, sec. 81.

^b Appointment and powers of official liquidator, secs. 92, 93, 94, and 95.

^c Meaning of contributory, sec. 74.

^d Jurisdiction of Vice-Warden of the Stannaries, sec. 68.

^e Appeals, sec. 124. ^f Power of court to summon and examine persons acquainted with affairs of company, sec. 115.

^g Power to enforce orders, sec. 120.—Special commissioners may be appointed to examine witnesses, sec. 126.

^h Power of Vice-Warden to decide claims of interpleader, sec. 116.

Companies, &c. (Part IV., Winding up.)

109. The court^a shall adjust the rights of the contributories^b amongst themselves,^c and distribute any surplus that may remain amongst the parties entitled thereto.

Court to adjust rights of contributories.

^a Definition of the court, sec. 81. ^b Meaning of contributory, sec. 74.

^c Liability of members, sec. 38.

110. The court^a may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the company of the costs, charges, and expenses incurred in winding up any company in such order of priority as the court^a thinks just.

Court to order costs.

^a Definition of the court, sec. 81.

111. When the affairs of the company have been completely wound up, the court^a shall make an order^b that the company be dissolved^c from the date of such order, and the company shall be dissolved accordingly.

Dissolution of company.

^a Definition of the court, sec. 81.

^b Order to be reported to Registrar, sec. 112.

^c Dissolution in case of voluntary winding up, sec. 143.

112. Any order so made shall be reported by the official liquidator^a to the Registrar,^b who shall make a minute accordingly in his books of the dissolution of such company.

Registrar to make minute of dissolution of company.

^a Appointment and powers of official liquidator, secs. 92 and 95.

^b Definition of Registrar, sec. 174.

113. If the official liquidator makes default in reporting to the Registrar, in the case of a company being wound up by the court, the order that the company be dissolved,^a he shall be liable to a penalty^b not exceeding five pounds for every day during which he is so in default.

Penalty on not reporting dissolution of company.

^a See sec. 112.

^b Recovery and application of penalties, secs. 65 and 66.

114. Any petition for winding up a company by the court under this Act^a shall constitute a *lis pendens* within the terms of the Act passed in

Petition to be *lis pendens*.

Companies, &c. (Part IV., Winding up.)

the Session holden in the second and third years of the reign of Her present Majesty, chapter eleven, and intituled "An Act for the better Protection of Purchasers against Judgments, Crown Debts, Lis pendens, and Fiats in Bankruptcy," provided the same is duly registered in manner required by such Act concerning suits in equity.

* Application to wind up to be by petition, sec. 82.

Extraordinary Powers of Court.

115. The court^a may, after it has made an order for winding up the company, summon before it any officer of the company or person known or suspected to have in his possession any of the estate or effects of the company,^b or supposed to be indebted to the company, or any person whom the court^a may deem capable of giving information concerning the trade, dealings, estate, or effects of the company;^c and the court^a may require any such officer or person to produce any books, papers, deeds, writings, or other documents in his custody or power relating to the company; and if any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the court^a at the time appointed, having no lawful impediment (made known to the court^a at the time of its sitting, and allowed by it), the court^a may cause such person to be apprehended, and brought before the court^a for examination;^d nevertheless, in cases where any person claims any lien on papers, deeds, or writings or documents produced by him, such production shall be without prejudice to such lien, and the court^a shall have jurisdiction in the winding up to determine all questions relating to such lien.^e

Power of court to summon persons before it suspected of having property of company.

^a Definition of the court, sec. 81.

^b Power of court to require delivery of property, sec. 100.

^c Special provision for Stannaries Court, secs. 108 and 116.

^d Examination; how conducted, sec. 117.—Special commissioners may be appointed for examining witnesses, sec. 126.

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116. If, after an order for winding up in the Court of the Vice-Warden of the Stannaries, it appears that any person claims property in, or any lien, legal or equitable, upon any of the machinery, materials, ores, or effects on the mine or on premises occupied by the company in connection with the mine, or to which the company was, at the time of the order, *prima facie* entitled, it shall be lawful for the Vice-Warden or the Registrar to adjudicate upon such claim on interpleader in the manner provided by section eleven of the Act passed in the eighteenth year of the reign of Her present Majesty, chapter thirty-two;^a and any action or issue directed upon such interpleader may, if the Vice-Warden think fit, be tried in his court or at the assizes or the sittings in *London* or *Middlesex*, before a judge of one of the superior courts, in the manner and on the terms and conditions hereinbefore provided in the case of disputed debts and claims of creditors.^a

Special provisions as to Court of Vice-Warden of the stannaries.*

^a Proceedings in the Court of Stannaries, sec. 108.

* Misprint in the Act, for "Stannaries."

117. The court^a may examine upon oath,^b either by word of mouth or upon written interrogatories, any person appearing or brought^c before them in manner aforesaid concerning the affairs, dealings, estate, or effects of the company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

Examination of parties by court.

^a Definition of the court, sec. 81. ^b Penalty for perjury, sec. 169.

^c Power of court to compel attendance, sec. 115.

118. The court^a may, at any time before or after it has made an order for winding up a company, upon proof being given that there is probable cause for believing that any contributory^b to such company is about to quit the United Kingdom, or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls,^c or for avoiding

Power to arrest contributory about to abscond, or to remove or conceal any of his property.

Companies, &c. (Part IV., Winding up.)

examination in respect of the affairs of the company,^d cause such contributory^b to be arrested, and his books, papers, moneys, securities for moneys, goods, and chattels to be seized, and him and them to be safely kept until such time as the court^a may order.

^a Definition of the court, sec. 81. ^b Meaning of contributory, sec. 74.

^c Power of court to make calls, sec. 102.

^d Examination of contributory respecting company's affairs, sec. 115.

119. Any powers by this Act conferred on the court^a shall be deemed to be in addition to and not in restriction of any other powers subsisting, either at law or in equity, of instituting proceedings against any contributory,^b or the estate of any contributory,^b or against any debtor of the company for the recovery of any call or other sums due from such contributory^b or debtor, or his estate, and such proceedings may be instituted accordingly.

^a Definition of the court, sec. 81.

^b Meaning of contributory, sec. 74.

Enforcement of and appeal from Orders.

120. All orders^a made by the Court of Chancery in *England* or *Ireland* under this Act may be enforced, in the same manner in which orders of such Court of Chancery made in any suit pending therein may be enforced, and for the purposes of this part of this Act the Court of the Vice-Warden of the Stannaries^b shall, in addition to its ordinary powers, have the same power of enforcing any orders made by it as the Court of Chancery in *England* has in relation to matters within the jurisdiction of such court, and for the last-mentioned purposes the jurisdiction of the Vice-Warden of the Stannaries shall be deemed to be co-extensive in local limits with the jurisdiction of the Court of Chancery in *England*.

^a Order in *England* to be enforced in *Ireland* and *Scotland*, sec. 122.

^b Jurisdiction of Court of Stannaries, sec. 68.

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121. Where an order, interlocutor, or decree has been made in *Scotland* for winding up a company by the court,^a it shall be competent to the court^a in *Scotland* during Session, and to the Lord Ordinary on the Bills during vacation, on production by the liquidators^b of a list^c certified by them of the names of the contributories liable in payment of any calls^d which they may wish to enforce, and of the amount due by each contributory^e respectively, and of the date when the same became due, to pronounce forthwith a decree against such contributories for payment of the sums so certified to be due by each of them respectively, with interest from the said date till payment, at the rate of five pounds *per centum per annum*, in the same way and to the same effect as if they had severally consented to registration for execution, on a charge of six days, of a legal obligation to pay such calls and interest; and such decree may be extracted immediately, and no suspension thereof shall be competent, except on caution or consignment, unless with special leave of the court or Lord Ordinary.

^a Definition of the court, sec. 81. ^b Official liquidators, sec. 92.

^c List of contributories, sec. 98. ^d Power of court to make calls, sec. 102.

^e Meaning of contributory, sec. 74.

122. Any order made by the court^a in *England* for or in the course of the winding up of a company under this Act shall be enforced in *Scotland* and *Ireland* in the courts^a that would respectively have had jurisdiction in respect of such company if the registered office^b of the company had been situate in *Scotland* or *Ireland*, and in the same manner in all respects as if such order had been made by the courts that are hereby required to enforce the same; and in like manner orders, interlocutors, and decrees made by the court in *Scotland* for or in the course of the winding up of a company shall be enforced in *England* and *Ireland*, and orders made by the court in *Ireland* for or in the course of winding up a

Order made
in *England*
to be enforced
in *Ireland*
and *Scotland*.

Companies, &c. (Part IV., Winding up.)

company shall be enforced in *England* and *Scotland* by the courts which would respectively have had jurisdiction in the matter of such company if the registered office^b of the company were situate in the division of the United Kingdom where the order is required to be enforced, and in the same manner in all respects as if such order had been made by the court^a required to enforce the same in the case of a company within its own jurisdiction.^c

^a Definition of the court, sec. 81.

^b Registered office, sec. 39.—Provision respecting office in case of unregistered companies, part 1, sec. 199.

^c Mode of dealing with orders to be enforced by other courts, sec. 123.

123. Where any order, interlocutor, or decree made by one court is required to be enforced by another court, as hereinbefore provided,^a an office copy^b of the order, interlocutor, or decree so made shall be produced to the proper officer of the court required to enforce the same, and the production of such office copy shall be sufficient evidence of such order, interlocutor, or decree having been made, and thereupon such last-mentioned court shall take such steps in the matter as may be requisite for enforcing such order, interlocutor, or decree, in the same manner as if it were the order, interlocutor, or decree of the court enforcing the same.

^a Sec. 122.

^b Judicial notice to be taken of signature of officers, sec. 125.

124. Rehearings of and appeals from any order or decision made or given in the matter of the winding up of a company by any court having jurisdiction under this Act^a may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same court in cases within its ordinary jurisdiction; subject to this restriction, that no such rehearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of

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appeal are ordinarily given, according to the practice of the court appealed from, unless such time is extended by the Court of Appeal: Provided that it shall be lawful for the Lord Warden of the Stannaries, by a special or general order,^b to remit at once any appeal allowed and regularly lodged with him* against any order or decision of the Vice-Warden made in the matter of a winding up to the Court of Appeal in Chancery, which court shall thereupon hear and determine such appeal, and have power to require all such certificates of the Vice-Warden, records of proceedings below, documents, and papers as the Lord Warden would or might have required upon the hearing of such appeal, and to exercise all other the jurisdiction and powers of the Lord Warden specified in the Act of Parliament passed in the eighteenth year of the reign of Her present Majesty, chapter thirty-two, and any order so made by the Court of Appeal in Chancery shall be final, without any further appeal.

* Courts having jurisdiction set forth in sec. 81.

^b No general order has yet been made.

* Special rules respecting appeals under this Act have been made by the Lord Warden, and are published by W. Maxwell, 32, Bell Yard, Lincoln's Inn Fields. Price 1s.

125. In all proceedings under this part of this Act, all courts, judges, and persons judicially acting, and all other officers, judicial or ministerial, of any court, or employed in enforcing the process of any court, shall take judicial notice of the signature of any officer of the Courts of Chancery or Bankruptcy in *England* or in *Ireland*, or of the Court of Session in *Scotland*, or of the Registrar of the Court of the Vice-Warden of the Stannaries, and also of the official seal or stamp of the several offices of the Courts of Chancery or Bankruptcy in *England* or *Ireland*, or of the Court of Session in *Scotland*, or of the Court of the Vice-Warden of the Stannaries, when such seal or stamp is appended to or impressed on any document made, issued, or signed under the provisions of this part of the Act, or any official copy thereof.

Judicial
notice to be
taken of sig-
nature of
officers.

Companies, &c. (Part IV., Winding up.)

126. The commissioners of the Court of Bankruptcy, and the judges of the county courts in *England* who sit at places more than twenty miles from the General Post-office, and the commissioners of bankrupt and the assistant-barristers and recorders in *Ireland*, and the sheriffs of counties in *Scotland*, shall be commissioners for the purpose of taking evidence under this Act in cases where any company is wound up in any part of the United Kingdom, and it shall be lawful for the court^a to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed commissioner, although such commissioner is out of the jurisdiction of the court that made the order or decree for winding up the company; and every such commissioner shall, in addition to any power of summoning and examining witnesses, and requiring the production or delivery of documents, and certifying or punishing defaults by witnesses, which he might lawfully exercise as a commissioner of the Court of Bankruptcy, judge of a county court, commissioner of bankrupt, assistant-barrister or recorder, or as a sheriff of a county, have in the matter so referred to him all the same powers of summoning and examining witnesses, and requiring the production or delivery of documents, and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the court which made the order for winding up the company has;^b and the examination so taken shall be returned or reported to such last-mentioned court in such manner as it directs.

^a Definition of the court, sec. 81. ^b Penalty for perjury, sec. 169.

127. The court^a may direct the examination in *Scotland* of any person for the time being in *Scotland*, whether a contributory^b of the company or not, in regard to the estate, dealings, or affairs of any company in the course of being wound up, or in regard to the estate, dealings, or affairs of any person being a contributory^b of the company, so

Court may order the examination of persons in Scotland.

Companies, &c. (Part IV., Winding up.)

far as the company may be interested therein by reason of his being such contributory,^b and the order or commission to take such examination shall be directed to the sheriff of the county in which the person to be examined is residing or happens to be for the time, and the sheriff shall summon such person to appear before him at a time and place to be specified in the summons for examination upon oath^c as a witness or as a haver, and to produce any books, papers, deeds, or documents called for which may be in his possession or power, and the sheriff may take such examination either orally or upon written interrogatories, and shall report the same in writing in the usual form to the court, and shall transmit with such report the books, papers, deeds, or documents produced, if the originals thereof are required and specified by the order, or otherwise such copies thereof or extracts therefrom, authenticated by the sheriff,^d as may be necessary; and in case any person so summoned fails to appear at the time and place specified, or appearing refuses to be examined or to make the production required, the sheriff shall proceed against such person as a witness or haver duly cited and failing to appear or refusing to give evidence or make production may be proceeded against by the law of *Scotland*; and the sheriff shall be entitled to such and the like fees, and the witness shall be entitled to such and the like allowances, as sheriffs when acting as commissioners under appointment from the Court of Session and as witnesses and havers are entitled to in the like cases according to the law and practice of *Scotland*. If any objection is stated to the sheriff by the witness, either on the ground of his incompetency as a witness, or as to the production required to be made, or on any other ground whatever, the sheriff may, if he thinks fit, report such objection to the court, and suspend the examination of such witness until such objection has been disposed of by the court.^a

^a Definition of the court, sec. 81. ^b Meaning of contributory, sec. 74.

^c Penalty for perjury, sec. 169.

^d Judicial notice to be taken of signature of officers, sec. 125.

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128. Any affidavit, affirmation, or declaration required to be sworn or made, under the provisions or for the purposes of this part of this Act, may be lawfully sworn or made in *Great Britain* or *Ireland*, or in any colony, island, plantation, or place, under the dominion of Her Majesty, in foreign parts, before any court, judge, or person, lawfully authorized to take and receive affidavits, affirmations, or declarations, or before any of Her Majesty's consuls, or vice-consuls, in any foreign parts out of her Majesty's dominions. And all courts, judges, justices, commissioners, and persons acting judicially shall take judicial notice of the seal, or stamp, or signature (as the case may be) of any such court, judge, person, consul, or vice-consul attached, appended, or subscribed to any such affidavit, affirmation, or declaration, or to any other document to be used for the purposes of this part of this Act.^a

^a Penalty, for perjury, sec. 169.

Voluntary Winding up of Company.

129. A company under this Act may be wound up^a voluntarily,^b

Circumstances under which company may be wound up voluntarily.

1. Whenever the period, if any, fixed for the duration of the company by the Articles of Association^c expires, or whenever the event, if any, occurs, upon the occurrence of which it is provided by the Articles of Association^c that the company is to be dissolved, and the company in general meeting^d has passed a resolution requiring the company to be wound up voluntarily :
2. Whenever the company has passed a special resolution^e requiring the company to be wound up voluntarily :^f
3. Whenever the company has passed an extraordinary resolution to the effect that it has been proved to their satisfaction that the com-

Companies, &c. (Part IV., Winding up.)

pany cannot by reason of its liabilities continue its business, and that it is advisable to wind up the same :^f

For the purposes of this Act any resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting,^d have constituted a special resolution,^e as hereinbefore defined.

^a Winding up by the court, sec. 79.—Winding up under supervision, sec. 147.

^b Effect of winding up voluntarily, sec. 131.—Consequences of winding up voluntarily, sec. 133.—Unregistered company may not be wound up voluntarily, part 2, sec. 199.

^c Articles of Association, sec. 14.

^d Evidence of proceedings of meetings, sec. 67.

^e Definition of special resolution, sec. 51.

^f Special or extraordinary resolutions to wind up must be advertised in *London Gazette*, sec. 132.

130. A voluntary winding up shall be deemed to commence^a at the time of the passing of the resolution authorizing such winding up.^b

Commencement of voluntary winding up.

^a Commencement of winding up by the court, sec. 84.

^b Dispositions after commencement of winding up avoided, sec. 153.

131. Whenever a company is wound up voluntarily^a the company shall, from the date of the commencement of such winding up,^b cease to carry on its business, except in so far as may be required for the beneficial winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidators,^c or alteration in the status of the members^d of the company, taking place after the commencement of such winding up,^b shall be void, but its corporate state and all its corporate powers^e shall, notwithstanding it is otherwise provided by its regulations,^f continue until the affairs of the company are wound up.^g

Effect of voluntary winding up on status of company.

^a Causes for winding up voluntarily, sec. 129.

^b Commencement of winding up voluntarily, sec. 130.

^c Liquidators, sec. 133.

^d Definition of members, sec. 23.

^e Registered company a body corporate, sec. 18.

^f Regulations, sec. 14.

^g Conclusion of winding up, secs. 142 and 143.

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132. Notice of any special resolution or extraordinary resolution passed for winding up a company voluntarily,^a shall be given by advertisement as respects companies registered in *England* in the *London Gazette*, as respects companies registered in *Scotland* in the *Edinburgh Gazette*, and as respects companies registered in *Ireland* in the *Dublin Gazette*.

^a Special or extraordinary resolutions for winding up voluntarily, sec. 129.

133. The following consequences shall ensue upon the voluntary winding up of a company :—

Consequences of voluntarily winding up.

1. The property of the company shall be applied in satisfaction of its liabilities *pari passu*, and, subject thereto, shall, unless it be otherwise provided by the regulations^b of the company, be distributed amongst the members^c according to their rights and interests in the company :
2. Liquidators shall be appointed for the purpose of winding up the affairs of the company and distributing the property :
3. The company in general meeting^d shall appoint such persons or person as it thinks fit to be liquidators or a liquidator,^e and may fix the remuneration to be paid to them or him.^f
4. If one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him :
5. Upon the appointment of liquidators all the power of the directors shall cease, except in so far as the company in general meeting or the liquidators may sanction the continuance of such powers :
6. When several liquidators are appointed, every power hereby given^g may be exercised by such one or more of them as may be determined at the time of their appointment, or in default of such determination by any number not less than two :

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7. The liquidators may, without the sanction of the court, exercise all powers by this Act given to the official liquidator:^a
8. The liquidators may exercise the powers hereinbefore given to the court of settling the list of contributories^d of the company, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories.^j
9. The liquidators may at any time after the passing of the resolution for winding up the company,^k and before they have ascertained the sufficiency of the assets of the company, call on all or any of the contributories^j for the time being settled on the list of contributories to the extent of their liability^l to pay all or any sums they deem necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding it up, and for the adjustment of the rights of the contributories^j amongst themselves; and the liquidators may in making a call take into consideration the probability that some of the contributories^j upon whom the same is made may partly or wholly fail to pay their respective portions of the same:
10. The liquidators shall pay the debts of the company, and adjust the rights of the contributories^j amongst themselves.

^a Effect of voluntary winding up, sec. 131. ^b Regulations, sec. 14.

^c Definition of members, sec. 23.

^d Evidence of minutes of meeting appointing liquidators, sec. 67.

^e Company may delegate power to appoint liquidators, sec. 135.

^f Power to fill up vacancy in liquidators, secs. 140 and 141.

^g Liquidators may apply to the court, sec. 138.—May call general meeting, sec. 139.—General scheme of liquidation may be sanctioned, sec. 159.—Liquidators may compromise, sec. 160.

^h Style and duties of official liquidator, sec. 94.—His powers, sec. 95.—Right to appoint a solicitor, sec. 97.

ⁱ Settlement of list of contributories by the court, secs. 98 and 99.

^j Meaning of contributory, sec. 74.

^k Resolutions for winding up, sec. 129. ^l Liability of members, sec. 38.

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134. Where a company limited by guarantee,^a and having a capital divided into shares, is being wound up voluntarily, any share capital that may not have been called up shall be deemed to be assets of the company, and to be a specialty debt due from each member^b to the company, to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the liquidators.^c

Effect of winding up on share capital of company limited by guarantee.

^a Company limited by guarantee defined by sec. 9.

^b Definition of member, sec. 23.

^c Liquidators, sec. 133.—Similar provision when company wound up by the court, sec. 90.

135. A company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an extraordinary resolution,^a delegate to its creditors, or to any committee of its creditors, the power of appointing liquidators^b or any of them, and supplying any vacancies^c in the appointment of liquidators, or may by a like resolution enter into any arrangement with respect to the powers to be exercised by the liquidators,^b and the manner in which they are to be exercised; and any act done by the creditors, in pursuance of such delegated power, shall have the same effect as if it had been done by the company.

Power of company to delegate authority to appoint liquidators.

^a Definition of extraordinary resolution, sec. 129.

^b Liquidators, sec. 133. ^c Vacancy in liquidators, sec. 140.

136. Any arrangement entered into between a company about to be wound up voluntarily, or in the course of being wound up voluntarily, and its creditors, shall be binding on the company if sanctioned by an extraordinary resolution,^a and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is hereinafter mentioned.^b

Arrangement when binding on creditors.

^a Definition of extraordinary resolution, sec. 129.

^b Right of appeal, sec. 137.

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137. Any creditor or contributory^a of a company that has in manner aforesaid^b entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the court^c against such arrangement, and the court^c may thereupon, as it thinks just, amend, vary, or confirm the same.

Powers of
creditor or
contributory
to appeal.

^a Meaning of contributory, sec. 74.

^b Sec. 136.

^c Definition of court, sec. 81.

138. Where a company is being wound up voluntarily the liquidators^a or any contributory^b of the company may apply to the court^c in *England, Ireland, or Scotland*, or to the Lord Ordinary on the Bills in *Scotland* in time of vacation, to determine any question arising in the matter of such winding up, or to exercise as respects the enforcing of calls,^d or in respect of any other matter, all or any of the powers which the court^e might exercise if the company were being wound up by the court;^e and the court^e or Lord Ordinary, in the case aforesaid, if satisfied that the determination of such question, or the required exercise of power, will be just and beneficial, may accede, wholly or partially, to such application, on such terms, and subject to such conditions as the court^e thinks fit, or it may make such other order, interlocutor, or decree, on such application as the court thinks just.

Power for
liquidators
or contribu-
tories in
voluntary
winding up
to apply to
court.

^a Liquidators, sec. 133.

^b Meaning of contributory, sec. 74.

^c Definition of court, sec. 81.

^d Power of liquidators to make calls, part 9, sec. 133.—Of court, sec. 102.

^e Power of court to stay actions, secs. 85 and 87.—Power of court to stay proceedings of winding up, sec. 89.—To settle list of contributories, sec. 98.—To require delivery of property, sec. 100.—To order payment of debts by contributory, sec. 101.—To make calls, sec. 102.—To order payment into bank instead of to official liquidator, sec. 103.—To take proceedings for administering estates of deceased contributories, sec. 105.—To exclude creditors not proving within a certain time, sec. 107.—To adjust rights of contributories, sec. 109.—To order payment of costs, sec. 110.—To order dissolution of company, sec. 111.—To summon persons suspected of

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having property of the company, sec. 115.—Power of Vice-Warden of Stannaries to decide interpleaders, sec. 116.—Power of court to examine parties on oath, sec. 117.—To arrest contributories about to abscond, sec. 118.—To enforce orders, sec. 119.—To order contributories in Scotland to pay calls, sec. 121.—Mode of dealing with orders to be enforced by other courts, sec. 123.—Appeals, sec. 124.—Notice to be taken of signature of officers, sec. 125.—Special commissioners for receiving evidence, sec. 126.—Examination of persons in Scotland, sec. 127.—Swearing of affidavits, sec. 128.

139. Where a company is being wound up voluntarily the liquidators^a may from time to time, during the continuance of such winding up, summon general meetings^b of the company for the purpose of obtaining the sanction of the company by special resolution^c or extraordinary resolution,^d or for any other purposes they think fit; and in the event of the winding up continuing for more than one year, the liquidators^a shall summon a general meeting^b of the company at the end of the first year, and of each succeeding year from the commencement of the winding up,^e or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding up has been conducted during the preceding year.

^a Liquidators, sec. 133. ^b Evidence of proceedings at meetings, sec. 67.

^c Definition of special resolution, sec. 51.

^d Definition of extraordinary resolution, sec. 129.

^e Definition of commencement of winding up, sec. 130.

140. If any vacancy occur in the office of liquidators^a appointed by the company, by death, resignation, or otherwise, the company in general meeting may, subject to any arrangement they may have entered into with their creditors,^b fill up such vacancy, and a general meeting^c for the purpose of filling up such vacancy may be convened by the continuing liquidators,^a if any, or by any contributory^d of the company, and shall be deemed to have been duly held if held in manner prescribed by the regulations^e of the company, or in such other manner as may, on application by the continuing liquidator,^a if any, or by any

Power of fill up vacancy in liquidators.

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contributory^d of the company, be determined by the court.^f

^a Liquidators, sec. 133.

^b Pursuant to sec. 135.

^c Evidence of proceedings at meetings, sec. 67.

^d Meaning of contributory, sec. 74.

^e Regulations, sec. 14.

^f Definition of the court, sec. 81.

141. If from any cause whatever there is no liquidator^a acting in the case of a voluntary winding up, the court^b may, on the application of a contributory,^c appoint a liquidator or liquidators:^a the court^b may also, on due cause shown, remove any liquidator,^a and appoint another liquidator^a to act in the matter of a voluntary winding up.

^a Liquidators, sec. 133.

^b Definition of the court, sec. 81.

^c Meaning of contributory, sec. 74.

142. As soon as the affairs of the company are fully wound up, the liquidators^a shall make up an account showing the manner in which such winding up has been conducted, and the property of the company disposed of; and thereupon they shall call a general meeting^b of the company for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidators.^a The meeting shall be called by advertisement, specifying the time, place, and object of such meeting; and such advertisement shall be published one month at least previously to the meeting, as respects companies registered in *England* in the *London Gazette*, and as respects companies registered in *Scotland* in the *Edinburgh Gazette*, and as respects companies registered in *Ireland* in the *Dublin Gazette*.

^a Liquidators, sec. 133.

^b Evidence of proceedings at meetings, sec. 67.

143. The liquidators^a shall make a return to the Registrar^b of such meeting having been held, and of the date at which the same was held, and on the expiration of three months from the date of the registration of such return the company shall be

^a Liquidators to report meeting to Registrar.

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deemed to be dissolved :^c if the liquidators^a make default in making such return to the Registrar^b they shall incur a penalty^d not exceeding five pounds for every day during which such default continues.

^a Liquidators, sec. 133.

^b Definition of Registrar, sec. 174.

^c Dissolution by order of the court, sec. 111.

^d Recovery and application of penalties, secs. 65 and 66.

144. All costs, charges, and expenses properly incurred in the voluntary winding up of a company, including the remuneration^a of the liquidators, shall be payable out of the assets of the company in priority to all other claims.^b

Costs of
voluntary
liquidation.

^a Remuneration of liquidators, part 3, sec. 133.

^b Similar provision on winding up by the court, sec. 110.

145. The voluntary winding up of a company shall not be a bar to the right of any creditor of such company to have the same wound up by the court,^a if the court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding up.^b

Saving of
rights of
creditors.

^a Definition of the court, sec. 81.

^b Causes for creditor petitioning, secs. 79 and 80.

146. Where a company is in course of being wound up voluntarily, and proceedings are taken^a for the purpose of having the same wound up by the court,^b the court may,^c if it thinks fit, notwithstanding that it makes an order directing the company to be wound up by the court,^b provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding up.

Power of
court to
adopt pro-
ceedings of
voluntary
winding up.

^a Creditor's right to petition, sec. 145.

^b Definition of the court, sec. 81.

^c Circumstances under which company may be wound up by the court, sec. 79.

*Companies, &c. (Part IV., Winding up.)**Winding up subject to the Supervision of the Court.*

147. When a resolution has been passed by a company to wind up voluntarily,^a the court^b may make an order directing that the voluntary winding up should continue, but subject to such supervision of the court, and with such liberty for creditors, contributories,^c or others, to apply to the court,^b and generally upon such terms and subject to such conditions as the court^b thinks just.^d

^a Resolutions to wind up voluntarily, sec. 129.

^b Definition of the court, sec. 81.

^c Meaning of contributory, sec. 74.

^d Petition to wind up subject to supervision, sec. 148.—Court to have regard to wishes of creditors and contributories, sec. 149.—Effect of order to wind up subject to supervision, sec. 151.

148. A petition, praying wholly or in part that a voluntary winding up should continue, but subject to the supervision of the court,^a and which winding up is hereinafter referred to as a winding up subject to the supervision of the court, shall, for the purpose of giving jurisdiction to the court over suits and actions,^b be deemed to be a petition for winding up the company by the court.

^a Pursuant to sec. 147.

^b Jurisdiction of the court over suits and actions in winding up by the court, secs. 85 and 87.

149. The court^a may, in determining whether a company is to be wound up altogether by the court^a or subject to the supervision of the court, in the appointment of liquidator^b or liquidators, and in all other matters relating to the winding up subject to supervision, have regard to the wishes of the creditors or contributories^c as proved to it by any sufficient evidence, and may direct meetings^d of the creditors or contributories^c to be summoned, held, and regulated in such manner as the court^a directs for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting,

Court may have regard to wishes of creditors.

Companies, &c. (Part IV., Winding up.)

and to report the result of such meeting to the court.^a In the case of creditors, regard shall be had to the value of the debts due to each creditor, and in the case of contributories^c to the number of votes conferred on each contributory^c by the regulations^c of the company.

^a Definition of the court, sec. 81.

^b Liquidators, sec. 133.

^c Meaning of contributory, sec. 74.

^d Evidence of proceedings of meetings, sec. 67. ^e Regulations, sec. 14.

150. Where any order is made by the court^a for a winding up subject to the supervision of the court,^b the court^a may, in such order or in any subsequent order, appoint any additional liquidator or liquidators;^c and any liquidators^c so appointed by the court shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if they had been appointed by the company. The court^a may from time to time remove any liquidators^c so appointed by the court,^a and fill up any vacancy occasioned by such removal, or by death or resignation.

Power to court to appoint additional liquidators in winding up subject to supervision.

^a Definition of the court, sec. 81.

^b Description of winding up subject to supervision, sec. 147.

^c Liquidators, sec. 133.

151. Where an order is made for a winding up subject to the supervision of the court,^a the liquidators^b appointed to conduct such winding up may, subject to any restrictions imposed by the court, exercise all their powers,^b without the sanction or intervention of the court,^c in the same manner as if the company were being wound up altogether voluntarily; but, save as aforesaid, any order made by the court^a for a winding up, subject to the supervision of the court,^a shall for all purposes, including the staying of actions, suits, and other proceedings,^d be deemed to be an order of the court for winding up the company by the court,^e and shall confer full authority on the court^e to make calls,^e or to enforce calls made by the liquidators,^b and to exercise all other powers^f which it might have exercised if an order had

Effect of order of court for winding up subject to supervision.

Companies, &c. (Part IV., Winding up.)

been made for winding up the company altogether by the court,^a and in the construction of the provisions whereby the court^a is empowered to direct any act or thing to be done to or in favour of the official liquidators,^b the expression official liquidators shall be deemed to mean the liquidators conducting the winding up, subject to the supervision of the court.^c

^a Description of winding up subject to supervision, sec. 151.

^b Liquidators and their powers, sec. 133.

^c Definition of the court, sec. 81.

^d Staying of proceedings, secs. 85 and 87.

^e Power of court to make calls, sec. 102.

^f Power of court to stay the proceedings of winding up, sec. 89.—To settle list of contributories, sec. 98.—To require delivery of property, sec. 100.—To order payment of debts by contributory, sec. 101.—To order payment to bank instead of to official liquidator, sec. 103.—To take proceedings for administering estates of deceased contributories, sec. 105.—To exclude creditors not proving within limited time, sec. 107.—To adjust rights of contributories, sec. 109.—To order payment of costs, sec. 110.—To order dissolution of company, sec. 111.—To summon persons suspected of having property of the company, sec. 115.—Power of Vice-Warden of the Stannaries to decide interpleaders, sec. 116.—Power of court to examine parties on oath, sec. 117.—To arrest contributory about to abscond, sec. 118.—To enforce orders, sec. 119.—To order contributory in Scotland to pay calls, sec. 121.—Mode of dealing with orders to be enforced by other courts, sec. 123.—Appeals, sec. 124.—Notice to be taken of signature of officers, sec. 125.—Special commissioners for receiving evidence, sec. 126.—Examination of persons in Scotland, sec. 127.—Swearing of affidavits, sec. 128. ^g Official liquidators, sec. 92.

152. Where an order has been made for the winding up of a company subject to the supervision of the court,^a and such order is afterwards superseded by an order directing the company to be wound up compulsorily,^b the court^c may in such last-mentioned order, or in any subsequent order, appoint the voluntary liquidators^d or any of them, either provisionally or permanently, and either with or without the addition of any other persons, to be official liquidators.^e

^a Winding up subject to supervision, sec. 147.

^b Circumstances under which company may be wound up compulsorily, sec. 79.

^c Definition of the court, sec. 81.

^d Voluntary liquidators, sec. 133.

^e Official liquidators, sec. 92.

*Companies, &c. (Part IV., Winding up.)**Supplemental Provisions.*

153. Where any company is being wound up by the court^a or subject to the supervision^b of the court, all dispositions of the property, effects, and things in action of the company, and every transfer of shares, or alteration in the status of the members^c of the company, made between the commencement of the winding up^d and the order for winding up, shall, unless the court^e otherwise orders, be void.

^a Winding up by the court, sec. 79.

^b Winding up subject to supervision, sec. 147.

^c Definition of members, sec. 23.

^d Commencement of winding up by the court, sec. 84.—Voluntarily, sec. 130.

^e Definition of the court, sec. 81.

154. Where any company is being wound up, all books, accounts, and documents of the company and of the liquidators^a shall, as between the contributories^b of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

^a Official liquidators, sec. 92.—Voluntary liquidators, sec. 133.

^b Meaning of contributories, sec. 74.

155. Where any company has been wound up under this Act and is about to be dissolved,^a the books, accounts, and documents of the company and of the liquidators^b may be disposed of in the following way: that is to say, where the company has been wound up by^c or subject to the supervision of the court,^d in such way as the court^e directs, and where the company has been wound up voluntarily,^f in such way as the company by an extraordinary resolution^g directs; but after the lapse of five years from the date of such dissolution,^h no responsibility shall rest on the company or the liquidators,^b or any one to whom the custody of such books, accounts, and documents has been committed, by reason that the same or

As to disposal of books, accounts, and documents of the company.

Companies, &c. (Part IV., Winding up.)

any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

^a Dissolution of company winding up by the court, sec. 111.—Winding up voluntarily, sec. 143.

^b Official liquidators, sec. 92.—Voluntary liquidators, sec. 133.

^c Winding up by the court, sec. 79. ^d Subject to supervision, sec. 147.

^e Definition of the court, sec. 81. ^f Winding up voluntarily, sec. 129.

^g Definition of extraordinary resolution, sec. 129.

156. Where an order has been made for winding up a company by the court,^a or subject to the supervision of the court,^b the court^c may make such order for the inspection by the creditors and contributories^d of the company of its books and papers as the court^e thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories,^d in conformity with the order of the court,^e but not further or otherwise.

^a Winding up by the court, sec. 79. ^b Subject to supervision, sec. 147.

^c Definition of the court, sec. 81. ^d Meaning of contributory, sec. 74.

157. Any person to whom anything in action belonging to the company is assigned,^a in pursuance of this Act, may bring or defend any action or suit relating to such thing in action in his own name.

Power of assignee to sue.

^a Official liquidator may sell things in action, sec. 95.—Vesting of things in action in official liquidators of unregistered companies, sec. 203.

158. In the event of any company being wound up under this Act, all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company,^a a just estimate being made, so far as is possible, of the value of all such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

Debts of all descriptions to be proved.

^a Exclusion of creditors not proving within a certain time, sec. 107.

Companies, &c. (Part IV., Winding up.)

159. The liquidators^a may, with the sanction of the court,^b where the company is being wound up by the court^c or subject to the supervision of the court,^d and with the sanction of an extraordinary resolution^e of the company where the company is being wound up altogether voluntarily,^f pay any classes of creditors in full, or make such compromise or other arrangement as the liquidators^a may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company,^g or whereby the company may be rendered liable.

^a Official liquidators, sec. 92.—Voluntary liquidators, sec. 133.

^b Definition of the court, sec. 81.

^c Winding up by the court, sec. 79.

^d Subject to supervision, sec. 147.

^e Definition of extraordinary resolution, sec. 129.

^f Voluntary winding up, sec. 129.

^g Such debts to be proved, sec. 158.

160. The liquidators^a may, with the sanction of the court,^b where the company is being wound up by the court^c or subject to the supervision of the court,^d and with the sanction of an extraordinary resolution^e of the company where the company is being wound up altogether voluntarily,^f compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and any contributory^g or alleged contributory,^h or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets of the company or the winding up of the company, upon the receipt of such sums, payable at such times, and generally upon such terms as may be agreed upon, with power for the liquidators^a to take any security for the discharge of such debts or liabilities, and to give complete dis-

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charges in respect of all or any such calls, debts, or liabilities.

- ^a Official liquidators, sec. 92.—Voluntary liquidators, sec. 133.
- ^b Definition of the court, sec. 81.
- ^c Winding up by the court, sec. 79.
- ^d Winding up subject to supervision, sec. 147.
- ^e Definition of extraordinary resolution, sec. 129.
- ^f Winding up voluntarily, sec. 129.
- ^g Meaning of contributory, sec. 74.

161. Where any company is proposed to be or is in the course of being wound up altogether voluntarily,^a and the whole or a portion of its business or property is proposed to be transferred or sold to another company, the liquidators^b of the first mentioned company may, with the sanction of a special resolution^c of the company by whom they were appointed, conferring either a general authority on the liquidators,^b or an authority in respect of any particular arrangement, receive in compensation or part compensation for such transfer or sale shares, policies, or other like interests in such other company, for the purpose of distribution amongst the members^d of the company being wound up, or may enter into any other arrangement whereby the members^d of the company being wound up may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing company; and any sale made or arrangement entered into by the liquidators^b in pursuance of this section shall be binding on the members^d of the company being wound up; subject to this proviso that if any member^d of the company being wound up who has not voted in favour of the special resolution^c passed by the company of which he is a member^d at either of the meetings held for passing the same expresses his dissent from any such special resolution^c in writing addressed to the liquidators^b or one of them, and left at the registered office^e of the com-

Power for liquidators to accept shares, &c., as a consideration for sale of property of company.

Companies, &c. (Part IV., Winding up.)

pany not later than seven days after the date of the meeting at which such special resolution^e was passed, such dissentient member^d may require the liquidators^b to do one of the following things as the liquidators^b may prefer: that is to say, either to abstain from carrying such resolution into effect, or to purchase the interest held by such dissentient member^d at a price to be determined in manner hereinafter mentioned, such purchase money to be paid before the company is dissolved,^f and to be raised by the liquidators^b in such manner as may be determined by special resolution.^e No special resolution^e shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to or concurrently with any resolution for winding up the company,^a or for appointing liquidators;^b but if an order be made within a year for winding up the company by^g or subject to the supervision of the court,^h such resolution shall not be of any validity unless it is sanctioned by the court.ⁱ

- ^a Winding up voluntarily, sec. 129. ^b Liquidators, sec. 133.
^c Definition of special resolution, sec. 51. ^d Definition of member, sec. 23.
^e Registered office, sec. 39. ^f Dissolution of company, sec. 143.
^g Winding up by the court, sec. 79. ^h Subject to supervision, sec. 147.
ⁱ Definition of the court, sec. 81.

162. The price^a to be paid for the purchase of the interest of any dissentient member^b may be determined by agreement, but if the parties dispute about the same, such dispute shall be settled by arbitration, and for the purposes of such arbitration the provisions of "The Companies Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration, shall be incorporated with this Act; and in the construction of such provisions this Act shall be deemed to be the special Act, and "the company" shall mean the company that is being wound up, and any appointment by the said incorporated provisions directed to be made under the hand of the secretary, or any two of the directors, may be made

Mode of
determining
price.

Companies, &c. (Part IV., Winding up.)

under the hand of the liquidator,^c if only one, or any two or more of the liquidators^c if more than one.

^a Pursuant to sec. 161.

^b Definition of member, sec. 23.

^c Liquidators, sec. 133.

163. Where any company is being wound up by the court^a or subject to the supervision of the court,^b any attachment, sequestration, distress, or execution put in force against the estate or effects of the company after the commencement of the winding up^c shall be void to all intents.

Certain attachments, sequestrations, and executions to be void.

^a Winding up by the court, sec. 79. ^b Subject to supervision, sec. 147.

^c Commencement of winding up, sec. 84.

164. Any such conveyance, mortgage, delivery of goods, payment, execution, or other act relating to property as would, if made or done by or against any individual trader, be deemed in the event of his bankruptcy to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any company, be deemed, in the event of such company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such company, and shall be invalid accordingly; and for the purposes of this section the presentation of a petition for winding up a company shall in the case of a company being wound up by the court^a or subject to the supervision of the court,^b and a resolution for winding up the company shall in the case of a voluntary winding up,^c be deemed to correspond with the Act of Bankruptcy in the case of an individual trader; and any conveyance or assignment made by any company formed under this Act of all its estate and effects to trustees for the benefit of all its creditors shall be void to all intents.

^a Winding up by the court, sec. 79. ^b Subject to supervision, sec. 147.

^c Voluntarily, sec. 129.

Companies, &c. (Part IV., Winding up.)

165. Where, in the course of the winding up of any company under this Act, it appears that any past or present director, manager, official^a or other liquidator,^b or any officer of such company, has misapplied or retained in his own hands or become liable or accountable for any moneys of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the court^c may, on the application of any liquidator,^{a, b} or of any creditor or contributory^d of the company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager, or other officer, and compel him to repay any moneys so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the court^c thinks just, or to contribute such sums of money to the assets of the company by way of compensation in respect of such misapplication, retainer, misfeasance, or breach of trust, as the court^c thinks just.

^a Official liquidator, sec. 92.

^b Liquidator, sec. 133.

^c Definition of the court, sec. 81.

^d Meaning of contributory, sec. 74.

166. If any director, officer, or contributory^a of any company wound up under this Act destroys, mutilates, alters or falsifies any books, papers, writings, or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account, or other document belonging to the company, with intent to defraud or deceive any person, every person so offending shall be deemed to be guilty of a misdemeanor, and upon being convicted shall be liable to imprisonment for any term not exceeding two years, with or without hard labour.

^a Meaning of contributory, sec. 74.

167. Where any order is made for winding up a company by the court^a or subject to the supervision of the court,^b if it appear in the course

Prosecution
of delinquent

G

Companies, &c. (Part IV., Winding up.)

directors in the case of winding up by court. of such winding up that any past or present director, manager, officer, or member^c of such company has been guilty of any offence in relation to the company for which he is criminally responsible, the court^d may, on the application of any person interested in such winding up, or of its own motion, direct the official liquidators^e or the liquidators^e (as the case may be), to institute and conduct a prosecution or prosecutions for such offence, and may order the costs and expenses to be paid out of the assets of the company.

^a Winding up by the court, sec. 79. ^b Subject to supervision, sec. 147.

^c Definition of member, sec. 23. ^d Definition of the court, sec. 81.

^e Official liquidators, sec. 92.—Liquidators, sec. 133.

168. Where a company is being wound up altogether voluntarily,^a if it appear to the liquidators^b conducting such winding up that any past or present director, manager, officer, or member^c of such company has been guilty of any offence in relation to the company for which he is criminally responsible, it shall be lawful for the liquidators,^b with the previous sanction of the court,^d to prosecute such offender, and all expenses properly incurred by them in such prosecution shall be payable out of the assets of the company in priority to all other liabilities.

^a Winding up voluntarily, sec. 129. ^b Liquidators, sec. 133.

^c Definition of member, sec. 23. ^d Definition of the court, sec. 81.

169. If any person, upon any examination upon oath or affirmation authorized under this Act, or in any affidavit, deposition, or solemn affirmation in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act, wilfully and corruptly gives false evidence, he shall, upon conviction, be liable to the penalties of wilful perjury.

*Companies, &c. (Part IV., Winding up.)**Power of Courts to make Rules.*

170. In *England* the Lord Chancellor of *Great Britain*, with the advice and consent of the Master of the Rolls, and any one of the Vice-Chancellors for the time being, or with the advice and consent of any two of the Vice-Chancellors, may, as often as circumstances require, make such rules concerning the mode of proceeding to be had for winding up a company in the Court of Chancery^a as may from time to time seem necessary, but until such rules are made the general practice of the Court of Chancery, including the practice hitherto in use in winding up companies, shall, so far as the same is applicable and not inconsistent with this Act, apply to all proceedings for winding up a company.*

^a In what cases companies are to be wound up in the Court of Chancery, sec. 81.

* Special rules pursuant to this section have been made, and are published by V. and R. Stevens, Sons, and Haynes, 26, Bell Yard, Lincoln's Inn. Price 2s. 6d. They are contained in the Appendix, page 160.

171. In *Scotland* the Court of Session^a may make such rules concerning the mode of winding up as may be necessary by Act of Sederunt;* but until such rules are made the general practice of the Court of Session in suits pending in such court shall, so far as the same is applicable, and not inconsistent with this Act, apply to all proceedings for winding up a company, and official liquidators^b shall in all respects be considered as possessing the same powers as any trustee on a bankrupt estate.

^a In what cases companies are to be wound up in the Court of Session, sec. 81.

^b Official liquidators, sec. 92.

* No rules have yet been made in pursuance of this section.

172. The Vice-Warden of the Stannaries may from time to time, with the consent provided for by section twenty-three of the Act of eighteenth of *Victoria*, chapter thirty-two, make rules for carrying into effect the powers conferred by this Act

Power to make rules in Stannaries Court.

Companies, &c. (Part IV., Winding up.)

upon the court of the Vice-Warden, but, subject to such rules, the general practice of the said court and of the Registrar's office in the said court, including the present practice of the said court in winding up companies,* may be applied to all proceedings under this Act; the said Vice-Warden may likewise, with the same consent, make from time to time rules for specifying the fees to be taken in his said court in proceedings under this Act; and any rules so made shall be of the same force as if they had been enacted in the body of this Act; and the fees paid in respect of proceeding taken under this Act, including fees taken under "The Joint Stock Companies Act, 1856," in the matter of winding up companies, shall be applied exclusively towards payment of such additional officers, or such increase of the salaries of existing officers, or pensions to retired officers, or such other needful expenses of the court, as the Lord Warden of the Stannaries shall from time to time, on the application of the Vice-Warden or otherwise, think fit to direct, sanction, or assign, and meanwhile shall be kept as a separate fund apart from the ordinary fees of the court arising from other business, to await such direction and order of the Lord Warden herein, and to accumulate by investment in government securities, until the whole shall have been so appropriated.* ¶

* In what cases companies are to be wound up in the Court of Stannaries, sec. 81.

* Special rules pursuant to this section have been made, and are published by H. Sweet, 3, Chancery Lane. Price 1s. 6d.

173. In *Ireland* the Lord Chancellor of *Ireland* may, as respects the winding up of companies in *Ireland*,^a with the advice and consent of the Master of the Rolls in *Ireland*, exercise the same power of making rules as is by this Act hereinbefore given to the Lord Chancellor of *Great Britain*;^{*} but until such rules are made the general practice of the Court of Chancery in *Ireland*, including the practice hitherto in use in *Ireland* in winding up

Power of
Lord Chan-
cellor of
Ireland to
make rules.

Companies, &c. (Part V., Registration Office.)

companies, shall, so far as the same is applicable and not inconsistent with this Act, apply to all proceedings for winding up a company.

* In what cases companies are to be wound up in the Court of Chancery in Ireland, sec. 81.

* No rules have yet been made in pursuance of this section.

PART V.

REGISTRATION OFFICE.

174. The registration of companies under this Act shall be conducted as follows (that is to say):—
Constitution of Registration office.

1. The Board of Trade may from time to time appoint such Registrars, Assistant-Registrars, clerks, and servants, as they may think necessary for the registration of companies under this Act, and remove them at pleasure :
2. The Board of Trade may make such regulations as they think fit with respect to the duties to be performed by any such Registrars, Assistant-Registrars, clerks, and servants, as aforesaid :
3. The Board of Trade may from time to time determine the places at which offices for the registration of companies are to be established, so that there be at all times maintained in each of the three parts of the United Kingdom at least one such office, and that no company shall be registered except at an office within that part of the United Kingdom in which by the Memorandum of Association^a the registered office^b of the company is declared to be established; and the Board may require that the Registrar's office of the court of the Vice-Warden of the Stannaries shall be one of the offices for the registration of companies formed for working mines within the jurisdiction of the court :^c
4. The Board of Trade may from time to time

Companies, &c. (Part V., Registration Office.)

direct a seal or seals to be prepared for the authentication of any documents required for or connected with the registration of companies :

5. Every person may inspect the documents kept by the Registrar of Joint Stock Companies, and there shall be paid for such inspection such fees as may be appointed by the Board of Trade, not exceeding one shilling for each inspection ; and any person may require a certificate of the incorporation^d of any company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar ; and there shall be paid for such certificate of incorporation, certified copy, or extract such fees as the Board of Trade may appoint, not exceeding five shillings for the certificate of incorporation, and not exceeding sixpence for each folio of such copy or extract, or in *Scotland* for each sheet of two hundred words :
6. The existing Registrar, Assistant-Registrars, clerks, and other officers and servants in the office for the registration of joint stock companies, shall, during the pleasure of the Board of Trade, hold the offices and receive the salaries hitherto held and received by them, but they shall, in the execution of their duties, conform to any regulations that may be issued by the Board of Trade :
7. There shall be paid to any Registrar, Assistant-Registrar, clerk, or servant that may hereafter be employed in the registration of joint stock companies, such salary as the Board of Trade may, with the sanction of the Commissioners of the Treasury, direct :
8. Whenever any Act is herein directed to be done to or by the Registrar of Joint Stock Com-

Companies, &c. (Part VI., Registration of existing Companies.)

panies, such Act shall, until the Board of Trade otherwise directs, be done in *England* to or by the existing Registrar of Joint Stock Companies, or in his absence to or by such person as the Board of Trade may for the time being authorize; in *Scotland* to or by the existing Registrar of Joint Stock Companies in *Scotland*; and in *Ireland* to or by the existing Assistant-Registrar of Joint Stock Companies for *Ireland*, or by such person as the Board of Trade may for the time being authorize in *Scotland* or *Ireland* in the absence of the Registrar; but in the event of the Board of Trade altering the constitution of the existing registry office, such act shall be done to or by such officer or officers, and at such place or places, with reference to the local situation of the registered offices of the companies to be registered as the Board of Trade may appoint.^c

^a Memorandum of Association, secs. 8, 9, and 10.

^b Registered office, sec. 39.

^c By an order of the Board of Trade, dated the 14th day of February, 1863, all such companies are to be registered at the Registrar's office of the court of the Vice-Warden at Truro.

^d Certificate of incorporation conclusive evidence of company having complied with the requisitions of the Act, sec. 18.—The like in the case of registration of existing companies, sec. 192.

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES ACTS.

175. The expression, "Joint Stock Companies Acts," as used in this Act, shall mean "The Joint Stock Companies Act, 1856," "The Joint Stock Companies Acts, 1856, 1857," "The Joint Stock Banking Companies Act, 1857," and "The Act

Definition of
Joint Stock
Companies
Acts.

Companies, &c. (Part VI., Registration of existing Companies.)

to enable Joint Stock Banking Companies to be formed on the Principle of Limited Liability," or any one or more of such Acts, as the case may require; but shall not include the Act passed in the eighth year of the reign of Her present Majesty, chapter one hundred and ten, and intituled, "An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies."

176. Subject as hereinafter mentioned, this Act, with the exception of Table A, in the First Schedule,^a shall apply to companies formed and registered under the said Joint Stock Companies Acts,^b or any of them,^c in the same manner in the case of a limited company as if such company had been formed and registered under this Act as a company limited by shares,^d and in the case of a company other than a limited company as if such company had been formed and registered as an unlimited company under this Act,^e with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such companies were respectively registered under the said Joint Stock Companies Acts^b or any of them, and the power of altering regulations by special resolution^f given by this Act shall, in the case of any company formed and registered under the said Joint Stock Companies Acts^b or any of them, extend to altering any provisions contained in the Table marked B, annexed to "The Joint Stock Companies Act, 1856,"^g and shall also in the case of an unlimited company formed and registered as last aforesaid^e extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding such regulations are contained in the Memorandum of Association.

^a Table A, p. 112. ^b Definition of Joint Stock Companies Acts, sec. 175.

^c Transfer of shares in such companies, sec. 178.

^d Company limited by shares, sec. 8.

^e Unlimited company, sec. 10.

^f Definition of special resolution, sec. 51.

^g Table B, Appendix, page 150.

Companies, &c. (Part VII., Registration of existing Companies.)

177. This Act shall apply to companies registered but not formed under the said Joint Stock Companies Acts^a or any of them^b in the same manner as it is hereinafter declared^c to apply to companies registered but not formed under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such companies were respectively registered under the said Joint Stock Companies Acts^a or any of them.^b

^a Definition of Joint Stock Companies Acts, sec. 175.

^b Transfer of shares in such companies, sec. 178. ^c Sec. 196.

178. Any company registered under the said Joint Stock Companies Acts^a or any of them may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct.

^a Definition of Joint Stock Companies Acts, sec. 175.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

179. The following regulations shall be observed with respect to the registration of companies under this part of this Act (that is to say):—

Regulations
as to registra-
tion of exist-
ing com-
panies.

1. No company having the liability of its members limited by Act of Parliament or letters patent, and not being a joint stock company as hereinafter defined,^a shall register under this Act in pursuance of this part thereof:
2. No company having the liability of its members limited by Act of Parliament or by letters patent shall register under this Act in pursuance of this part thereof as an unlimited company,^b or as a company limited by guarantee:^c

Companies, &c. (Part VII., Registration of existing Companies.)

3. No company that is not a joint stock company as hereinafter defined^a shall in pursuance of this part of this Act register under this Act as a company limited by shares :^d
4. No company shall register under this Act in pursuance of this part thereof unless an assent to its so registering is given by a majority of such of its members as may be present, personally or by proxy, in cases where proxies are allowed by the regulations of the company, at some general meeting summoned for the purpose :
5. Where a company not having the liability of its members limited by Acts of Parliament or letters patent is about to register as a limited company,^e the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned general meeting :
6. Where a company is about to register as a company limited by guarantee^e the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of the same being wound up, during the time that he is a member,^f or within one year afterwards, for payment of the debts and liabilities of the company contracted before the time at which he ceased to be a member, and of the costs, charges, and expenses, of winding up the company, and for the adjustment of the rights of the contributors^g amongst themselves, such amount as may be required, not exceeding a specified amount :

In computing any majority under this section when a

Companies, &c. (Part VII., Registration of existing Companies.)

poll is demanded regard shall be had to the number of votes to which each member is entitled according to the regulations of the company of which he is a member.

- ^a Definition of joint stock company, sec. 181.
- ^b Unlimited company defined by sec. 10.
- ^c Company limited by guarantee defined by sec. 9.
- ^d Company limited by shares defined by sec. 8.
- ^e Limited company defined by sec. 7.
- ^f Definition of member, sec. 23.
- ^g Meaning of contributory, sec. 74.

180. With the above exceptions, and subject to the foregoing regulations,^a every company existing at the time of the commencement of this Act,^b including any company registered under the said Joint Stock Companies Acts,^c consisting of seven or more members, and any company hereafter formed in pursuance of any Act of Parliament other than this Act, or of letters patent, or being a company engaged in working mines within and subject to the jurisdiction of the Stannaries, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an unlimited company,^d or a company limited by shares,^e or a company limited by guarantee;^f and no such registration shall be invalid by reason that it has taken place with a view to the company being wound up.

- ^a Sec. 179.
- ^b Commencement of Act, sec. 2.
- ^c Joint Stock Companies Acts defined by sec. 175.
- ^d Unlimited company defined by sec. 10.
- ^e Company limited by shares defined by sec. 8.
- ^f Company limited by guarantee defined by sec. 9.

181. For the purposes of this part of this Act, so far as the same relates to the description of companies empowered to register^a as companies limited by shares,^b a joint stock company shall be deemed to be a company having a permanent paid up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the

Definition of
joint stock
company.

Companies, &c. (Part VII., Registration of existing Companies.)

other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons;^c and such company when registered with limited liability under this Act shall be deemed to be a company limited by shares.^b

^a Secs. 179 and 180. ^b Company limited by shares defined by sec. 8.

^c Registrar may require evidence whether company is a joint stock company, sec. 187.

182. No banking company claiming to issue notes in the United Kingdom shall be entitled to limited liability^a in respect of such issue, but shall continue subject to unlimited liability^b in respect thereof, and, if necessary, the assets shall be marshalled for the benefit of the general creditors, and the members^c shall be liable for the whole amount of the issue, in addition to the sum for which they would be liable^d as members of a limited company.

Proviso as to
banking
company.

^a Limited liability defined by sec. 7.

^b Unlimited liability defined by sec. 10.

^c Definition of member, sec. 23. ^d Liability of members, sec. 38.

183. Previously to the registration in pursuance of this part of this Act of any joint stock company^a there shall be delivered to the Registrar^b the following documents^c (that is to say):^d—

Requisitions
for registra-
tion by com-
panies.

1. A list showing the names, addresses, and occupations of all persons who, on a day named in such list, and not being more than six clear days before the day of registration,^e were members of such company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number:
2. A copy of any Act of Parliament, royal charter, letters patent, deed of settlement, contract of copartnership, cost-book regulations, or other instrument constituting or regulating the company:

Companies, &c. (Part VII., Registration of existing Companies.)

3. If any such joint stock company^a is intended to be registered as a limited company,^f the above list and copy shall be accompanied by a statement specifying the following particulars (that is to say):—

The nominal capital of the company and the number of shares into which it is divided :

The number of shares taken and the amount paid on each share :^g

The name of the company, with the addition of the word “limited,” as the last word thereof :^h

With the addition, in the case of a company intended to be registered as a company limited by guarantee,ⁱ of the resolution^j declaring the amount of the guarantee.

^a Joint stock company defined by sec. 181.

^b Definition of Registrar, sec. 174.

^c Documents to be authenticated, sec. 186.

^d Registrar may require evidence whether company is a joint stock company, sec. 187.

^e Date of registration, sec. 192.

^f Limited company defined by sec. 7.

^g Provision where capital has been converted into stock, sec. 185.

^h Company registering with limited liability to add “limited” to its name, sec. 190.

ⁱ Company limited by guarantee defined by sec. 9.

^j Particulars of resolution, part 6, sec. 179.

184. Previously to the registration in pursuance of this part of this Act of any company not being a joint stock company^a there shall be delivered to the Registrar^b a list showing the names, addresses, and occupations of the directors or other managers (if any) of the company,^c also a copy of any Act of Parliament, letters patent, deed of settlement, contract of copartnery, cost-book regulations, or other instrument constituting or regulating the company,^e with the addition, in the case of a company intended to be registered as a company limited by

Requisitions
for registra-
tion by exist-
ing company
not being a
Joint Stock
Company.

Companies, &c. (Part VII., Registration of existing Companies.)

guarantee,^d of the resolution^e declaring the amount of guarantee.

^a Definition of joint stock company, sec. 181.

^b Registrar defined by sec. 174.—Registrar may require evidence whether company is a joint stock company, sec. 187.

^c Duly authenticated, sec. 186.

^d Definition of company limited by guarantee, sec. 9.

^e Resolution declaring amount of guarantee, part 6, sec. 179.

185. Where a joint stock company^a authorized to register under this Act^b has had the whole or any portion of its capital converted into stock, such company shall, as to the capital so converted, instead of delivering to the Registrar^c a statement of shares,^d deliver to the Registrar^c a statement^e of the amount of stock belonging to the company, and the names of the persons who were holders of such stock, on some day to be named in the statement, not more than six clear days before the day of registration.^f

^a Joint stock company defined by sec. 181.

^b Companies authorized to register, secs. 179 and 180.

^c Registrar defined by sec. 174. ^d Statement of shares, sec. 183.

^e Duly authenticated, sec. 186. ^f Day of registration, sec. 192.

186. The lists of members^a and directors^b and any other particulars relating to the company hereby required to be delivered to the Registrar,^c shall be verified by a declaration of the directors of the company delivering the same, or any two of them, or of any two other principal officers of the company, made in pursuance of the Act passed in the sixth year of the reign of his late Majesty King *William the Fourth*, chapter sixty-two.

^a List of members, secs. 183 and 185. ^b List of directors, sec. 184.

^c Registrar defined by sec. 174.

187. The Registrar^a may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing company is or not a joint stock company as hereinbefore defined.^b

Registrar may require evidence as to nature of company.

^a Registrar defined by sec. 174.

^b Joint stock company defined by sec. 181.

Companies, &c. (Part VII., Registration of existing Companies.)

188. Every banking company existing at the date of the passing of this Act which registers itself as a limited company^a shall, at least thirty days previous to obtaining a certificate of registration^b with limited liability, give notice that it is intended so to register the same to every person and partnership firm who have a banking account with the company, and such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the post, addressed to him or them at such address as shall have been last communicated or otherwise become known as his or their address to or by the company; and in case the company omits to give any such notice as is hereinbefore required to be given, then as between the company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.^c

^a Limited company defined by sec. 7.

^b Certificate of registration, secs. 18 and 191.

^c Banking company issuing notes may not have limited liability in respect thereof, sec. 182.

189. No fees shall be charged in respect of the registration in pursuance of this part of this Act of any company in cases where such company is not registered as a limited company,^a or where previously to its being registered as a limited company^a the liability of the shareholders was limited by some other Act of Parliament or by letters patent.

Exemption
of certain
companies
from pay-
ment of fees.

^a Limited company defined by sec. 7.



Companies, &c. (Part VII., Registration of existing Companies.)

190. Any company authorized by this part of this Act^a to register with limited liability^b shall, for the purpose of obtaining registration with limited liability,^b change its name, by adding thereto the word "limited."

^a Companies authorized to register, secs. 179, 180, and 181.

^b Limited liability defined by sec. 97.

191. Upon compliance with the requisitions in this part of this Act contained with respect to registration, and on payment of such fees, if any,^a as are payable under the Tables marked B and C in the First Schedule hereto,^b the Registrar^c shall certify under his hand^d that the company so applying for registration is incorporated as a company under this Act,^e and in the case of a limited company,^f that it is limited, and thereupon such company shall be incorporated, and shall have perpetual succession and a common seal,^g with power to hold lands;^h and any banking company in *Scotland* so incorporated shall be deemed and taken to be a bank incorporated, constituted, or established by or under Act of Parliament.

^a Exemption of certain companies from payment of fees, secs. 189 and 209.

^b Tables B (page 132) and C (page 133). ^c Registrar, sec. 174.

^d Certificate evidence of compliance with Act, sec. 192.—Certificate to name date of registration, sec. 192.—Office copy certificate, part 5, sec. 174.

^e Transfer of property to newly incorporated company, sec. 193.—Obligations incurred previously to registration not affected by it, sec. 194.

^f Limited company defined by sec. 7.

^g Name to be engraven on common seal, sec. 41.

^h Prohibition against certain companies holding lands, sec. 21.

192. A certificate of incorporation^a given at any time to any company registered in pursuance of this part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the company is authorized to be registered under this Act as a limited^b or unlimited company,^c as the case may be, and the date of

Certificate to be evidence of compliance with Act.

Companies, &c. (Part VII., Registration of existing Companies.)

incorporation mentioned in such certificate^a shall be deemed to be the date at which the company is incorporated under this Act.^d

^a Certificate of incorporation and its effect, sec. 191.

^b Limited company defined by sec. 7. ^c Unlimited company, sec. 10.

^d Office copy of such certificate may be had, part 5, sec. 174.

193. All such property, real and personal, including
Transfer of property to company. all interests and rights in, to, and out of property, real and personal, and including obligations and things in action, as may belong to or be vested in the company at the date of its registration^a under this Act, shall on registration pass to and vest in the company as incorporated under this Act for all the estate and interest of the company therein.

^a Date of registration, sec. 192.

194. The registration^a in pursuance of this part of
Registration under this Act not to affect obligations incurred previously to registration. this Act of any company shall not affect or prejudice the liability of such company to have enforced against it, or its rights to enforce, any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of such company previously to such registration.^a

^a Registration, sec. 191.

195. All such actions, suits, and other legal proceedings as may at the time^a of registration^b of any company registered in pursuance of this part of this Act have been commenced by or against such company, or the public officer^c or any member thereof, may be continued in the same manner as if such registration^b had not taken place; nevertheless, execution shall not issue against the effects of any individual member^d of such company upon any judgment, decree, or order, obtained in any action, suit, or proceeding so commenced as aforesaid; but in the event of the property and effects of the company being in-

H

Companies, &c. (Part VII., Registration of existing Companies.)

sufficient to satisfy such judgment, decree, or order, an order may be obtained for winding up the company.^c

^a Date of registration, sec. 192.

^b Registration, sec. 191.

^c Public officer, Part II., Second Schedule, p. 149.

^d Definition of member, sec. 23.

^e Winding up compulsorily, sec. 79.—Actions not to be brought against contributory after order to wind up, sec. 198.

196. When a company is registered under this Act in pursuance of this part thereof,^a all provisions contained in any Act of Parliament, deed of settlement, contract of copartnership, cost-book regulations, letters patent, or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee,^b the resolution declaring the amount of the guarantee,^c shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if they were contained in a registered Memorandum of Association^d and Articles of Association;^e and all the provisions of this Act shall apply to such company and the members,^f contributories,^g and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following (that is to say):—

1. That Table A^h in the First Schedule to this Act shall not, unless adopted by special resolution,ⁱ apply to any company registered under this Act in pursuance of this part thereof:
2. That the provisions of this Act relating to the numbering of shares^j shall not apply to any joint stock company^k whose shares are not numbered:
3. That no company shall have power to alter any provision contained in any Act of Parliament relating to the company:
4. That no company shall have power, without the sanction of the Board of Trade, to alter any

Companies, &c. (Part VII., Registration of existing Companies.)

provision contained in any letters patent relating to the company :

5. That in the event of the company being wound up, every person shall be a contributory,^s in respect of the debts and liabilities of the company contracted prior to registration,¹ who is liable,^m at law or in equity, to pay or contribute to the payment of any debt or liability of the company contracted prior to registration,¹ or to pay or contribute to the payment of any sum for the adjustment of the rights of the members^f amongst themselves in respect of any such debt or liability ; or to pay or contribute to the payment of the costs, charges, and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid ; and every such contributory^s shall be liable to contribute to the assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid ; and in the event of the death, bankruptcy, or insolvency of any such contributory^s as last aforesaid, or marriage of any such contributory^s being a female, the provisions hereinbefore containedⁿ with respect to the representatives, heirs, and devisees of deceased contributories,^s and with reference to the assignees of bankrupt or insolvent contributories,^s and to the husbands of married contributories,^s shall apply :
6. That nothing herein contained shall authorize any company to alter any such provisions contained any deed of settlement, contract of copartnery, cost-book regulations, letters patent, or other instrument constituting or regulating the company, as would, if such company had originally been formed under this Act, have been contained in the Memo-

Companies, &c. (Part VII., Registration of existing Companies.)

randum of Association,^o and are not authorized to be altered by this Act:^p

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any company registering under this Act in pursuance of this part thereof, by virtue of any Act of Parliament, deed of settlement, contract of co-partnery, letters patent, or other instrument constituting or regulating the company.

^a Registration, sec. 191.

^b Company limited by guarantee defined by sec. 9.

^c Resolution declaring amount of guarantee, part 6, sec. 179.

^d Memorandum of Association, sec. 6. ^e Articles of Association, sec. 14.

^f Definition of member, sec. 23. ^g Meaning of contributory, sec. 74.

^h Table A, p. 112. ⁱ Definition of special resolution, sec. 51.

^j Shares to be numbered, sec. 25.

^k Definition of joint stock company, sec. 181.

^l Date of registration, sec. 192.

^m Liability of members of companies under this Act, sec. 38.—Liability of members of unregistered companies, sec. 200. ⁿ Secs. 75, 76, 77, and 78.

^o Memorandum of Association of company limited by shares, sec. 8.—Of company limited by guarantee, sec. 9.—Of unlimited company, sec. 10.

^p Alterations allowed in Memorandum of Association, sec. 13.—Special alterations in Memorandum of Association of company limited by shares, sec. 12.

197. The court^a may, at any time after the presentation of a petition for winding up a company^b registered in pursuance of this part of this Act, and before making an order for winding up the company, upon the application by motion of any creditor of the company, restrain further proceedings in any action, suit, or legal proceeding against any contributory^c of the company as well as against the company as hereinbefore provided,^d upon such terms as the court^e thinks fit.

^a Definition of the court, sec. 81.

^b Application for winding up to be by petition, sec. 82.

^c Meaning of contributory, sec. 74. ^d Staying of actions, secs. 85 and 87.

198. Where an order has been made for winding up a company registered in pursuance of this part of the Act, in addition to the provisions

Order for winding up company.

Companies, &c. (Part VIII., Unregistered Companies.)

hereinbefore contained,^a it is hereby further provided that no suit, action, or other legal proceeding shall be commenced or proceeded with against any contributory^b of the company in respect of any debt of the company, except with the leave of the court,^c and subject to such terms as the court^c may impose.

^a Sec. 197.^b Meaning of contributory, sec. 74.^c Definition of the court, sec. 81.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

199. Subject as hereinafter mentioned, any partnership, association, or company, except railway companies incorporated by Act of Parliament, consisting of more than seven members, and not registered under this Act, and hereinafter included under the term unregistered company, may be wound up under this Act, and all the provisions of this Act with respect to winding up shall apply to such company, with the following exceptions and additions:—

Winding up
of unregis-
tered com-
panies.

1. An unregistered company shall, for the purpose of determining the court^b having jurisdiction in the matter of the winding up, be deemed to be registered in that part of the United Kingdom where its principal place of business is situate; or, if it has a principal place of business situate in more than one part of the United Kingdom, then in each part of the United Kingdom where it has a principal place of business; moreover the principal place of business of an unregistered company, or (where it has a principal place of business situate in more than one part of the United Kingdom) such one of its principal places of business as is situate in that part of the United Kingdom

Companies, &c. (Part VIII., Unregistered Companies.)

in which proceedings are being instituted, shall for all the purposes of the winding up of such company be deemed to be the registered office of the company :

2. No unregistered company shall be wound up under this Act voluntarily^d or subject to the supervision of the court :^e
3. The circumstances under which an unregistered company may be wound up^a are as follows (that is to say) :—
 - a. Whenever the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs :
 - b. Whenever the company is unable to pay its debts :
 - c. Whenever the court^f is of opinion that it is just and equitable that the company should be wound up :
4. An unregistered company shall, for the purposes of this Act, be deemed to be unable to pay its debts,
 - a. Whenever a creditor to whom the company is indebted, at law or in equity, by assignment or otherwise, in a sum exceeding fifty pounds then due, has served on the company, by leaving the same at the principal place of business of the company, or by delivering to the secretary or some director or principal officer of the company, or by otherwise serving the same in such manner as the court^f may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to

Companies, &c. (Part VIII., Unregistered Companies.)

secure or compound for the same to the satisfaction of the creditor :

- b. Whenever any action, suit, or other proceeding has been instituted against any member of the company for any debt or demand due, or claimed to be due, from the company, or from him in his character of member of the company, and notice in writing of the institution of such action, suit, or other legal proceeding having been served upon the company by leaving the same at the principal place of business of the company, or by delivering it to the secretary, or some director, manager, or principal officer of the company, or by otherwise serving the same in such manner as the court may approve or direct, the company has not within ten days after service of such notice paid, secured, or compounded for such debt or demand, or procured such action, suit, or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such action, suit, or other legal proceeding, and against all costs, damages, and expenses, to be incurred by him by reason of the same :
- c. Whenever, in *England* or *Ireland*, execution or other process issued on a judgment, decree, or order obtained in any court in favour of any creditor in any proceeding at law or in equity instituted by such creditor against the company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the company, is returned unsatisfied :
- d. Whenever, in the case of an unregistered

Companies, &c. (Part VIII., Unregistered Companies.)

company engaged in working mines within and subject to the jurisdiction of the Stannaries, a customary decree or order absolute for the sale of the machinery, materials, and effects of such mine has been made in a creditor's suit in the Court of the Vice-Warden :

e. Whenever, in *Scotland*, the induciæ of a charge for payment on an extract decree, or an extract registered bond, or an extract registered protest, have expired without payment being made :

f. Whenever it is otherwise proved to the satisfaction of the court^f that the company is unable to pay its debts.

^a Winding up by the court, secs. 79 to 128, and 153 to 173.

^b Definition of the court, sec. 81. ^c Registered office, sec. 39.

^d Winding up voluntarily, sec. 129. ^e Under supervision, sec. 147.

^f Definition of the court, part 1, this section.

200. In the event of an unregistered company^a being wound up^b every person shall be deemed to be a contributory^c who is liable, at law or in equity, to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs, charges, and expenses of winding up the company, and every such contributory^c shall be liable to contribute to the assets of the company in the course of the winding up all sums due from him in respect of any such liability as aforesaid ; but in the event of the death, bankruptcy, or insolvency of any contributory,^e or marriage of any female contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs, and devisees, of a deceased contributory,^d and to the assignees of a bankrupt or insolvent con-

Who to be deemed a contributory in the event of company being wound up.

Companies, &c. (Part VIII., Unregistered Companies.)

tributory,^e and to the husband of married contributories, shall apply.^f

^a Definition of unregistered company, sec. 199.

^b Winding up unregistered company, sec. 199.

^c Meaning of contributory, sec. 74. ^d Deceased contributory, sec. 76.

^e Bankrupt contributory, secs. 75 and 77. ^f Married contributory, sec. 78.

201. The court^a may, at any time after the presentation of a petition^b for winding up an unregistered company,^c and before making an order for winding up the company, upon the application of any creditor of the company, restrain further proceedings in any action, suit, or proceeding against any contributory^d of the company, or against the company as hereinbefore provided,^e upon such terms as the court^a thinks fit.

Power of court to restrain further proceedings.

^a Definition of the court, part 1, sec. 199.

^b Application to wind up must be by petition, sec. 82.

^c Winding up unregistered company, sec. 199.

^d Meaning of contributory, sec. 74.—Who is to be deemed a contributory, sec. 200.

^e Corresponding section in the case of unregistered companies, sec. 83.

202. Where an order has been made for winding up an unregistered company^a in addition to the provisions hereinbefore contained in the case of companies formed under this Act,^b it is hereby further provided that no suit, action, or other legal proceeding shall be commenced or proceeded with against any contributory^c of the company in respect of any debt of the company, except with the leave of the court,^d and subject to such terms as the court^d may impose.

Effect of order for winding up company.

^a Definition of unregistered company, sec. 199.

^b Staying of actions, sec. 87.

^c Meaning of contributory, sec. 74.—Who is to be deemed a contributory, sec. 200. ^d Definition of the court, part 1, sec. 199.

203. If any unregistered company^a has no power to sue and be sued in a common name, or if for any reason it appears expedient, the court^b may by the order made for winding up such company, or by any subsequent order, direct that all such property, real and personal, including all interest,

Provision in case of unregistered company.

Companies, &c. (Part VIII., Unregistered Companies.)

claims, and rights into and out of property, real and personal, and including things in action,^c as may belong to or be vested in the company, or to or in any person or persons on trust for or on behalf of the company, or any part of such property, is to vest in the official liquidator^d or official liquidators^d by his or their official name or names,^e and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the official liquidator^d or official liquidators^d may, in his or their official name or names,^e or in such name or names and after giving such indemnity as the court^b directs, bring or defend any actions, suits, or other legal proceeding relating to any property vested in him or them, or any actions, suits, or other legal proceedings necessary to be brought or defended for the purposes of effectually winding up the company and recovering the property thereof.^f

^a Definition of unregistered company, sec. 199.

^b Definition of the court, part 1, sec. 199.

^c Assignee of things in action may bring action in his own name, sec. 157.

^d Official liquidator, sec. 92.

^e Official name of liquidator, sec. 99. ^f Provisions cumulative, sec. 204.

204. The provisions made by this part of the Act with respect to unregistered companies^a shall be deemed to be made in addition to and not in restriction of any provisions hereinbefore contained with respect to winding up companies by the court,^b and the court^c or official liquidator^d may, in addition to anything contained in this part of the Act, exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed under this Act; but an unregistered company^a shall not, except in the event of its being wound up, be deemed to be a company under this Act, and then only to the extent provided by this part of this Act.

^a Definition of unregistered company, sec. 199.

^b Winding up by the court, secs. 79 to 128; and 153 to 173.

^c Definition of the court, part 1, sec. 199. ^d Official liquidator, sec. 92.

Companies, &c. (Part IX., Repeal of Acts, &c.)

PART IX.

REPEAL OF ACTS, AND TEMPORARY PROVISIONS.

205. After the commencement of this Act^a there shall be repealed the several Acts specified in the first part of the Third Schedule hereto,^b with this qualification, that so much of the said Acts as is set forth in the second part of the said Third Schedule^c shall be hereby re-enacted and continue in force as if unrepealed.

^a Commencement of Act, sec 2.

^b First Part, Third Schedule, p. 147.

^c Second Part, Third Schedule, p. 148.

206. No repeal hereby^a enacted shall affect,—
 Saving clause as to repeal. 1. Anything duly done under any Acts hereby repealed :^b

2. The incorporation of any company registered under any Act hereby repealed :^b

3. Any right or privilege acquired or liability incurred under any Act hereby repealed :^b

4. Any penalty,^c forfeiture, or other punishment incurred in respect of any offence against any Act hereby repealed :^b

5. Table B^d in the Schedule annexed to the "Joint Stock Companies Act, 1856," or any part thereof, so far as the same applies to any company existing at the time of the commencement of this Act.^e

^a Repeal of acts, sec. 205. ^b Acts repealed, Third Schedule, p. 147.

^c Recovery and application of penalties, secs. 65 and 66.

^d Table B, Appendix, p. 150. ^e Commencement of Act, sec. 2.

207. Where previously to the commencement of this Act^a an order has been made for winding up a company under any Acts or Act hereby repealed,^b or a resolution has been passed for winding up a company voluntarily, such company shall be wound up in the same manner and with the same

Saving of existing proceedings for winding up.

Companies, &c. (Part IX., Repeal of Acts, &c.)

incidents as if this Act were not passed, and for the purposes of such winding up, such repealed Acts or Act^b shall be deemed to remain in full force.

^a Commencement of Act, sec. 2.

^b Acts repealed, Third Schedule, p. 147.

208. Where previously to the commencement of this Act^a any conveyance, mortgage, or other deed has been made in pursuance of any Act hereby repealed,^b such deed shall be of the same force as if this Act had not passed, and for the purposes of such deed such repealed Act^b shall be deemed to remain in full force.

Saving of
conveyance
deeds.

^a Commencement of Act, sec. 2.

^b Acts repealed, Third Schedule, p. 147.

209. Every insurance company^a completely registered under the Act passed in the eighth year of the reign of Her present Majesty, chapter one hundred and ten, intituled "An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies," shall on or before the second day of November, one thousand eight hundred and sixty-two, and every other company required by any Act hereby repealed^b to register under the said Joint Stock Companies Acts,^c or one of such Acts, and which has not so registered, shall, on or before the expiration of the thirty-first day from the commencement of this Act,^d register itself as a company under this Act,^e in manner and subject to the regulations hereinbefore contained,^f with this exception, that no company completely registered under the said Act of the eighth year of the reign of Her present Majesty shall be required to deliver to the Registrar^g a copy of its deed of settlement; and for the purpose of enabling such insurance companies as are mentioned in this section to register under this Act, this Act shall be deemed to come into operation immediately on the passing thereof; nevertheless the registration of such companies shall not have any effect until the time of the commencement of this Act.^d No fees

Compulsory
registration
of certain
companies.

Companies, &c. (Part IX., Repeal of Acts, &c.)

shall be charged in respect of the registration of any company required to register by this section.

- ^a Definition of insurance company, sec. 3.
- ^b Acts repealed, Third Schedule, p. 147.
- ^c Definition of Joint Stock Companies Acts, sec. 175.
- ^d Commencement of Act, sec. 2. ^e Penalty on not registering, sec. 210.
- ^f Registration of existing companies, secs. 179 to 198.
- ^g Registrar defined by sec. 174.

210. If any company required by the last section to register under this Act makes default in complying with the provisions thereof, then, from and after the day upon which such company is required to register under this Act,^a until the day on which such company is registered under this Act (which it is empowered to do at any time), the following consequences shall ensue (that is to say):—

1. The company shall be incapable of suing either at law or in equity, but shall not be incapable of being made a defendant to a suit either at law or in equity :
2. No dividend shall be payable to any shareholder in such company :
3. Each director or manager of the company shall for each day during which the company so being in default carries on business incur a penalty^b not exceeding five pounds, and such penalty^b may be recovered by any person, whether a shareholder or not in the company, and be applied by him to his own use :

Nevertheless, such default shall not render the company so being in default illegal, nor subject it to any penalty or disability, other than as specified in this section ; and registration under this Act shall cancel any penalty or forfeiture, and put an end to any disability which any company may have incurred under any Act hereby repealed by reason of its not having registered under the said "Joint Stock Companies Acts, 1856, 1857," or one of them.

^a Sec. 209.

^b Recovery of penalty, sec. 65.

Companies, &c. (Part IX., Repeal of Acts, &c.)

211. Upon the application of the directors of any company registered under the Joint Stock Companies Acts as hereinbefore defined,^a or any of them, made within one year after the date of the commencement of this Act,^b sanctioned by a resolution passed at an extraordinary general meeting, but subject to the restrictions hereinafter mentioned,^c the Board of Trade shall have authority by their certificate in writing to change the registered office^d of any such company from any one part of the United Kingdom of *Great Britain and Ireland* to any other part thereof, and the Registrar^e of Joint Stock Companies with whom the Memorandum of Registration^{*} of such company has been registered shall, upon receipt of such certificate, note in writing upon the margin or at the foot of the said Memorandum the name of the place to which such registered office^d is to be transferred, and the day upon which such transfer is pursuant to such certificate to take place, and shall attach the certificate to the Memorandum; and the said Registrar^e shall thereupon transmit to the Registrar^e of Joint Stock Companies for that part of the United Kingdom to which the registered office is to be so transferred copies of the said certificate and of the said Memorandum of Registration^{*} so noted certified by him; and the said Registrar^e for the said last-mentioned part of the United Kingdom shall, upon receipt of such copies of certificate and Memorandum, retain and register the same in like manner, and on payment of the like fees to him as provided^f in the case of the registration of an original Memorandum of Registration,^{*} and thereupon the place of the registered office^d shall, from the said last-mentioned registration and the said day mentioned in the said certificate, be the place mentioned as such on the said certificate: provided, however, that such change shall in no wise alter or affect anything theretofore done by the said

* A misprint in the Act, for Memorandum o Association.

Companies, &c. (Part IX., Repeal of Acts, &c.)

company, or any of their rights or liabilities in respect thereof.

^a Joint Stock Companies Acts, sec. 175.

^b Commencement of Act, sec. 2.

^c Sec. 212.

^d Registered office, sec. 39.

^e Registrar defined by sec. 174.

^f Fees payable on registration, Tables B and C, First Schedule, p. 132.

212. The Board of Trade shall not issue their certificate in pursuance of the foregoing section until they are satisfied that an advertisement of the intention of the company to apply to the Board of Trade for a certificate, with a declaration that all parties objecting thereto are forthwith to apply to the Board of Trade, has been published once at the least in each of four successive weeks in the newspapers following: that is to say, in some newspapers circulating in the district where the registered office^a of the company is situate, and also if the company is registered in *England* in the *London Gazette*, if in *Ireland* in the *Dublin Gazette*, if in *Scotland* in the *Edinburgh Gazette*, nor until the said Board are satisfied that the objections, if any, that may be urged against the issue of such certificate are groundless.

^a Registered office, sec. 39.

Companies, &c. (First Schedule.)

FIRST SCHEDULE.

TABLE A.***REGULATIONS* FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.^b***Shares.*

1. If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

2. Every member^c shall, on payment of one shilling, or such less sum as the company in general meeting may prescribe, be entitled to a certificate,^d under the common seal^e of the company, specifying the share or shares held by him, and the amount paid thereon.

3. If such certificate^d is worn out or lost, it may be renewed on payment of one shilling, or such less sum as the company in general meeting may prescribe.

* Required by sec. 14.

^b Description of company limited by shares,

sec. 8.

^c Definition of member, sec. 23.

^d Certificate *prima facie* evidence of title, sec. 31.

^e Name of company to be engraved on common seal, sec. 41.

Calls on Shares.

4. The directors may from time to time make such calls upon the members^a in respect of all moneys unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call, and each member^a shall be liable to pay the amount of call so made to the persons and at the times and places appointed by the directors.

5. A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed.^b

6. If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such shares shall be liable to pay interest for the same at the rate of five pounds per cent. per

* *These regulations only apply when company registered without articles, sec. 15.*

**Companies, &c. (First Schedule.)*

annum from the day appointed for the payment thereof to the time of the actual payment.^c

7. The directors may, if they think fit, receive from any member^a willing to advance the same all or any part of the moneys due upon the shares held by him beyond the sums actually called for; and upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the company may pay interest at such rate as the member^a paying such sum in advance and the directors agree upon.^d

^a Definition of members, sec. 23.

^b Evidence of proceedings at meetings, sec. 67.

^c Declaration in action against members for calls, sec. 70.

^d Amount thus advanced not a debt of company as between member and any other creditor, sec. 38, part 7.

Transfers of Shares.

8. The instrument of transfer of any share in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register^a book in respect thereof.

9. Shares in the company shall be transferred in the following form:—

I *A.B.* of _____ in consideration of the sum of _____ pounds paid to me by *C.D.* of _____ do hereby transfer to the said *C.D.* the share [*or shares*] numbered _____ standing in my name in the books of the _____ company, to hold unto the said *C.D.*, his executors, administrators, and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I the said *C.D.* do hereby agree to take the said share [*or shares*] subject to the same conditions. As witness our hands, the _____ day of _____

10. The company may decline to register any transfer of shares made by a member^b who is indebted to them.

11. The transfer books shall be closed during the fourteen

^a * *These regulations only apply when company registered without articles, sec. 15.*

**Companies, &c. (First Schedule.)*

days immediately preceding the ordinary general meeting in each year.^c

^a Definition of register, sec. 25. ^b Definition of member, sec. 23.

^c Pursuant to sec. 33 ; but an advertisement is necessary.

Transmission of Shares.

12. The executors or administrators^a of a deceased member^b shall be the only persons recognised by the company as having any title to his share.

13. Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any member,^b or in consequence of the marriage of any female member,^b may be registered as a member^b upon such evidence being produced as may from time to time be required by the company.

14. Any person who has become entitled to a share in consequence of the death, bankruptcy, or insolvency of any member,^b or in consequence of the marriage of any female member,^b may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

15. The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

16. The instrument of transfer shall be presented to the company, accompanied with such evidence as the directors may require to prove the title of the transferor, and thereupon the company shall register the transferee as a member.^b

^a Members interest personal estate, sec. 22.

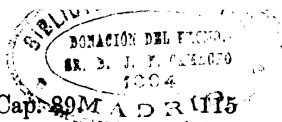
^b Definition of member, sec. 23.

Forfeiture of Shares.

17. If any member^a fails to pay any call on the day appointed for the payment thereof, the directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him, requiring him to pay such call, together with interest and any expenses that may have accrued by reason of such non-payment.

18. The notice shall name a further day, on or before which such call, and all interest and expenses that have accrued by reason of such non-payment, are to be paid. It shall also name the place where payment is to be made (the place so

^{*} *These regulations only apply when company registered without articles, sec. 15.*



**Companies, &c. (First Schedule.)*

named being either the registered office^b of the company or some other place at which calls of the company are usually made payable). The notice shall also state that in the event of non-payment at or before the time and at the place appointed the shares in respect of which such call was made will be liable to be forfeited.

19. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest, and expenses due in respect thereof has been made, be forfeited, by a resolution^c of the directors to that effect.

20. Any share so forfeited shall be deemed to be the property of the company, and may be disposed of in such manner as the company in general meeting^c thinks fit.

21. Any member^a whose shares have been forfeited shall notwithstanding be liable to pay to the company all calls owing upon such shares at the time of the forfeiture.

22. A statutory declaration in writing, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was made by a resolution^c of the directors to that effect, shall be sufficient evidence of the facts therein stated, as against all persons entitled to such share, and such declaration and the receipt of the company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship^d shall be delivered to a purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase; and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

^a Definition of member, sec. 23. ^b Registered office, sec. 39.

^c Evidence of proceedings at meetings, sec. 67.

^d Certificate *prima facie* evidence of title, sec. 31.

Conversion of Shares into Stock.

23. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock.*

24. When any shares have been converted into stock, the

* *These regulations only apply when company registered without articles, sec. 15.*

**Companies, &c. (First Schedule.)*

several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interests, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the company may be transferred, or as near thereto as circumstances admit.

25. The several holders of stock shall be entitled to participate in the dividends and profits of the company according to the amount of their respective interest in such stock; and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively the same privileges and advantages for the purpose of voting at meetings of the company, and for other purposes, as would have been conferred by shares of equal amount in the capital of the company; but so that none of such privileges or advantages, except the participation in the dividends and profits of the company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

^a Pursuant to sec. 12.

Increase in Capital.

26. The directors may, with the sanction of a special resolution^a of the company previously given in general meeting, increase its capital^b by the issue of new shares, such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the company in general meeting directs, or, if no direction is given, as the directors think expedient.

27. Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members^c in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member^c is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of such time, or on the receipt of an intimation from the member^c to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company.

28. Any capital raised by the creation of new shares shall

^{*} *These regulations only apply when company registered with out articles, see. 15.*

**Companies, &c. (First Schedule.)*

be considered as part of the original capital, and shall be subject to the same provisions with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

* Definition of special resolution, sec. 51.

^b Pursuant to sec. 12.

^c Definition of member, sec. 23.

General Meetings.

29. The first general meeting shall be held at such time, not being more than six months after the registration^a of the company, and at such place, as the directors may determine.

30. Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting; and if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year,^b at such place as may be determined by the directors.

31. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

32. The directors may, whenever they think fit, and they shall upon a requisition made in writing by not less than one-fifth in number of the members^c of the company, convene an extraordinary general meeting.

33. Any requisition made by the members^c shall express the object of the meeting proposed to be called, and shall be left at the registered office^d of the company.

34. Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other members^c amounting to the required number, may themselves convene an extraordinary general meeting.

* Date of registration, sec. 18.
annually, sec. 49.

^b General meetings must be held

^c Definition of member, sec. 23.

^d Definition of registered office, sec. 39.

Proceedings at General Meetings.

35. Seven days' notice at the least, specifying the place, the day, and the hour of meeting, and in case of special business the general nature of such business, shall be given to the

* These regulations only apply when company registered without articles, sec. 15.

**Companies, &c. (First Schedule.)*

members* in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting; but the non-receipt of such notice by any member* shall not invalidate the proceedings at any general meeting.

36. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend and the consideration of the accounts, balance-sheets, and the ordinary report of the directors.

37. No business shall be transacted at any general meeting, except the declaration of a dividend, unless a quorum of members* is present at the time when the meeting proceeds to business; and such quorum shall be ascertained as follows: that is to say, if the persons who have taken shares in the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members* after fifty, with this limitation, that no quorum shall in any case exceed twenty.

38. If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members,* shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place; and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

39. The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the company.

40. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members* present shall choose some one of their number to be chairman.

41. The chairman may, with the consent of the meeting, adjourn any meeting from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

42. At any general meeting, unless a poll is demanded by at least five members,* a declaration by the chairman that a resolution has been carried, and an entry to that effect in the

* These regulations only apply when company registered without articles, sec. 15.

**Companies, &c. (First Schedule.)*

book of proceedings of the company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.^b

43. If a poll is demanded by five or more members^a it shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the company in general meeting. In the case of an equality of votes at any general meeting, the chairman shall be entitled to a second or casting vote.

^a Definition of member, sec. 23.

^b Evidence of proceedings at meetings, sec. 67.

Votes of Members.

44. Every member^a shall have one vote for every share up to ten : he shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

45. If any member^a is a lunatic or idiot he may vote by his committee, curator bonis, or other legal curator.

46. If one or more persons are jointly entitled to a share or shares, the member^a whose name stands first in the register of members^b as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

47. No member^a shall be entitled to vote at any general meeting unless all calls due from him have been paid ; and no member^a shall be entitled to vote in respect of any share that he has acquired by transfer at any meeting held after the expiration of three months from the registration^c of the company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

48. Votes may be given either personally or by proxy.

49. The instrument appointing a proxy shall be in writing, under the hand of the appointor, or if such appointor is a corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member^a of the company.

50. The instrument appointing a proxy shall be deposited

* *These regulations only apply when company registered without articles, sec. 15.*

**Companies, &c. (First Schedule.)*

at the registered office^d of the company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote, but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

51. Any instrument appointing a proxy shall be in the following form :—

company limited.

I of in the county of
being a member of the company limited,
and entitled to vote or votes, hereby appoint
 of as my proxy, to vote for me
and on my behalf at the [ordinary or extraordinary, as
the case may be] general meeting of the company to be
held on the day of , and at any
adjournment thereof [or, at any meeting of the company
that may be held in the year].
As witness my hand, this day of .

Signed by the said in the presence of .

^a Definition of member, sec. 23.

^b Register of members, sec. 25.

^c Date of registration, sec. 18.

^d Definition of registered office, sec. 39.

Directors.

52. The number of the directors, and the names of the first directors, shall be determined by the subscribers^a of the Memorandum of Association.

53. Until directors are appointed,^b the subscribers^a of the Memorandum of Association shall be deemed to be directors.

54. The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the company in general meeting.

^a Subscribers to Memorandum of Association, sec. 6.

^b Appointment of directors deemed valid until contrary shown, sec. 67.

Powers of Directors.

55. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not by the foregoing Act, or by these Articles, required to be exercised by the company in

^{*} These regulations only apply when company registered without articles, sec. 15.

**Companies, &c. (First Schedule.)*

general meeting, subject nevertheless to any regulations of these Articles, to the provisions of the foregoing Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

56. The continuing directors may act, notwithstanding any vacancy in their body.

Disqualification of Directors.

57. The office of director shall be vacated—

If he holds any other office or place of profit under the company ;

If he becomes bankrupt or insolvent ;

If he is concerned in or participates in the profits of any contract with the company ;

But the above rules shall be subject to the following exceptions :—

That no director shall vacate his office by reason of his being a member of any company which has entered into contracts with or done any work for the company of which he is director ; nevertheless, he shall not vote in respect of such contract or work ; and if he does so vote his vote shall not be counted.

Rotation of Directors.

58. At the first ordinary meeting after the registration of the company, the whole of the directors shall retire from office ; and at the first ordinary meeting in every subsequent year one-third of the directors for the time being, or if their number is not a multiple of three, then the number nearest to one-third shall retire from office.

59. The one-third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year the one-third or other nearest number who have been longest in office shall retire.

60. A retiring director shall be re-eligible.

* *These regulations only apply when company registered without articles, sec. 15.*

**Companies, &c. (First Schedule.)*

61. The company at the general meeting at which any directors retire in manner aforesaid, shall fill up the vacated offices by electing a like number of persons.

62. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

63. The company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

64. Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

65. The company, in general meeting, may, by a special resolution,* remove any director before the expiration of his period of office; and may, by an ordinary resolution, appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

* Definition of special resolution, sec. 51.

Proceedings of Directors.

66. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors.

67. The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the

* *These regulations only apply when company registered without articles, sec. 15.*

**Companies, &c. (First Schedule.)*

same, the directors present shall choose some one of their number to be chairman of such meeting.

68. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

69. A committee may elect a chairman of their meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

70. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and in case of an equality of votes the chairman shall have a second or casting vote.

71. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.*

* Corresponding provisions in Act, sec. 67.

Dividends.

72. The directors may, with the sanction of the company in general meeting, declare a dividend to be paid to the members^a in proportion to their shares.

73. No dividend shall be payable except out of the profits arising from the business of the company.

74. The directors may, before recommending any dividend, set aside out of the profits of the company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the company, or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

75. The directors may deduct from the dividends payable

* *These regulations only apply when company registered without articles, sec. 15.*

**Companies, &c. (First Schedule.)*

to any member^a all such sums of money as may be due from him to the company on account of calls or otherwise.

76. Notice of any dividend that may have been declared shall be given to each member^a in manner hereinafter mentioned; and all dividends unclaimed for three years, after having been declared, may be forfeited by the directors for the benefit of the company.

77. No dividend shall bear interest as against the company.

^a Definition of member, sec. 23.

Accounts.

78. The directors shall cause true accounts^a to be kept—

Of the stock in trade of the company;

Of the sums of money received and expended by the company, and the matter in respect of which such receipt and expenditure takes place; and,

Of the credits and liabilities of the company:

The books of account shall be kept at the registered office^b of the company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the company in general meeting, shall be open to the inspection^c of the members^d during the hours of business.

79. Once at the least in every year the directors shall lay before the company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

80. The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

81. A balance-sheet shall be made out in every year, and laid before the company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities

^{*} *These regulations only apply when company registered without articles, sec. 15.*

**Companies, &c. (First Schedule.)*

of the company arranged under the heads appearing in the Form annexed to this Table^c or as near thereto as circumstances admit.

82. A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member^d in the manner in which notices are hereinafter directed to be served.

^a Persons making false and fraudulent entries in books guilty of misdemeanor, sec. 166. ^b Definition of registered office, sec. 39.

^c Inspection of register, sec. 32. ^d Definition of members, sec. 23.

^e Form of balance-sheet, p. 127.

Audit.

83. Once at the least in every year the accounts of the company shall be examined, and the correctness of the balance-sheet ascertained, by one or more auditor or auditors.

84. The first auditors shall be appointed by the directors. Subsequent auditors shall be appointed by the company in general meeting.

85. If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

86. The auditors may be members^a of the company; but no person is eligible as an auditor who is interested otherwise than as a member^a in any transaction of the company; and no director or other officer of the company is eligible during his continuance in office.

87. The election of auditors shall be made by the company at their ordinary meeting in each year.

88. The remuneration of the first auditors shall be fixed by the directors; that of subsequent auditors shall be fixed by the company in general meeting.

89. Any auditor shall be re-eligible on his quitting office.

90. If any casual vacancy occurs in the office of any auditor appointed by the company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

91. If no election of auditors is made in manner aforesaid the Board of Trade may, on the application of not less than five members^a of the company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the company for his services.

92. Every auditor shall be supplied with a copy of the

** These regulations only apply when company registered without articles, sec. 15.*

**Companies, &c. (First Schedule.)*

balance-sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto.

93. Every auditor shall have a list delivered to him of all books kept by the company, and shall at all reasonable times have access to the books and accounts of the company. He may, at the expense of the company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the directors or any other officer of the company.

94. The auditors shall make a report to the members^a upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the company's affairs, and in case they have called for explanations or information from the directors, whether such explanations or information have been given by the directors, and whether they have been satisfactory; and such report shall be read, together with the report of the directors, at the ordinary meeting.

^a Definition of member, sec. 23.

Notices.

95. A notice^a may be served by the company^b upon any member^c either personally, or by sending it^a through the post in a prepaid letter addressed to such member^c at his registered place of abode.^d

96. All notices directed to be given to the members^c shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members;^d and notice so given shall be sufficient notice to all the holders of such share.

97. Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that the letter containing the notices was properly addressed and put into the post-office.

^a Authentication of notices of company, sec. 64.

^b Service of notices on company, secs. 62 and 63.

^c Definition of member, sec. 23.

^d Register of members, sec. 25.

** These regulations only apply when company registered without articles, sec. 15.*

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Dr.		BALANCE-SHEET* of the		Co. made up to		18		Cr.	
CAPITAL AND LIABILITIES.				PROPERTY AND ASSETS.					
I. CAPITAL	Showing : 1 The Number of Shares . . . 2 The Amount paid per Share . . . 3 If any Arrears of Calls, the nature of the Arrear, and the Names of Defaulters. 4 The Particulars of any forfeited Shares.	£ s. d.	£ s. d.	III. PROPERTY held by the Company.	Showing : 7 Immoveable Property, distinguishing— (a.) Freehold Land (b.) " Buildings (c.) Leasehold 8 Moveable Property, distinguishing— (d.) Stock in Trade (e.) Plant The Cost to be stated with Deductions for Deterioration in Value as charged to the Reserve Fund or Profit and Loss.	£ s. d.	£ s. d.		
II. DEBTS AND LIABILITIES of the Company.	Showing : 5 The Amount of Loans on Mortgages or Debenture Bonds. 6 The Amount of Debts owing by the Company, distinguishing— (a.) Debts for which Acceptances have been given. (b.) Debts to Tradesmen for Supplies of Stock in Trade or other Articles. (c.) Debts for Law Expenses. (d.) Debts for Interest on Debentures or other Loans. (e.) Undeclared Dividends. (f.) Debts not enumerated above.	£ s. d.	£ s. d.	IV. DEBTS owing to the Company.	Showing : 9 Debts considered good for which the Company hold Bills or other Securities. 10 Debts considered good for which the Company hold no Security. 11 Debts considered doubtful and bad Any Debt due from a Director or other Officer of the Company to be separately stated.	£ s. d.	£ s. d.		
VI. RESERVE FUND.	Showing : The Amount set aside from Profits to meet Contingencies.	£ s. d.	£ s. d.	V. CASH AND INVESTMENTS.	Showing : 12 The Nature of Investment and Rate of Interest. 13 The Amount of Cash, where lodged, and if bearing Interest.	£ s. d.	£ s. d.		
VII. PROFIT AND LOSS.	Showing : The disposable Balance for Payment of Dividend, &c.	£ s. d.	£ s. d.			£ s. d.	£ s. d.		
CONTINGENT LIABILITIES.	Claims against the Company not acknowledged as Debts. Moneys for which the Company is contingently liable.	£ s. d.	£ s. d.			£ s. d.	£ s. d.		

* Referred to in article 81 of Table A, and only applicable to such companies as that Table applies to.

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Companies, &c. (First Schedule.)

TABLE B.

TABLE OF FEES to be paid* to the REGISTRAR of JOINT STOCK COMPANIES by a company having a capital divided into shares.

	£	s.	d.
For registration of a company whose nominal capital does not exceed 2,000 <i>l.</i> , a fee of	2	0	0

For registration of a company whose nominal capital exceeds 2,000*l.*, the above fee of 2*l.*, with the following additional fees, regulated according to the amount of nominal capital (that is to say):—

	£	s.	d.
For every 1,000 <i>l.</i> of nominal capital, or part of 1,000 <i>l.</i> , after the first 2,000 <i>l.</i> , up to 5,000 <i>l.</i>	1	0	0
For every 1,000 <i>l.</i> of nominal capital, or part of 1,000 <i>l.</i> , after the first 5,000 <i>l.</i> , up to 100,000 <i>l.</i>	0	5	0
For every 1,000 <i>l.</i> of nominal capital, or part of 1,000 <i>l.</i> , after the first 100,000 <i>l.</i>	0	1	0

For registration of any increase of capital made after the first registration of the company, the same fees per 1,000*l.*, or part of a 1,000*l.*, as would have been payable if such increased capital had formed part of the original capital at the time of registration.

Provided that no company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 50*l.*, taking into account in the case of fees payable on an increase of capital after registration the fees paid on registration.

For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new company.

For registering any document hereby required or authorized to be registered, other than the Memorandum of Association 0 5 0

Companies, &c. (First Schedule.)

For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	£	s.	d.
	0	5	0

* Pursuant to sec. 17.—On registration of existing company pursuant to sec. 191.

TABLE C.

TABLE OF FEES to be paid* to the REGISTRAR of JOINT STOCK COMPANIES by a company not having a capital divided into shares.

	£	s.	d.
For registration of a company whose number of members, as stated in the Articles of Association, does not exceed 20	2	0	0
For registration of a company whose number of members, as stated in the Articles of Association, exceeds 20, but does not exceed 100	5	0	0
For registration of a company whose number of members, as stated in the Articles of Association, exceeds 100, but is not stated to be unlimited, the above fee of 5 <i>l.</i> , with an additional 5 <i>s.</i> for every 50 members or less number than 50 members after the first 100.			
For registration of a company in which the number of members is stated in the Articles of Association to be unlimited, a fee of	20	0	0
For registration of any increase on the number of members made after the registration of the company in respect of every 50 members, or less than 50 members, of such increase	0	5	0
Provided that no one company shall be liable to pay on the whole a greater fee than 20 <i>l.</i> in respect of its number of members, taking into account the fee paid on the first registration of the company.			
For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new company.			

Companies, &c. (First Schedule.)

For registering any document hereby required or authorized to be registered, other than the Memorandum of Association	£	s.	d.
	0	5	0

For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	£	s.	d.
	0	5	0

* Pursuant to sec. 17.—On registration of existing company pursuant to sec. 191.

FORM D.

FORM OF STATEMENT referred to in Part III.* of the Act.

* The capital of the company is _____, divided into
shares of _____ each.

The number of shares issued is _____
Calls to the amount of _____ pounds per share have been
made, under which the sum of _____
pounds has been received.

The liabilities of the company on the first day of January
(or July) were—

Debts owing to sundry persons by the company :

On judgment, £
On specialty, £
On notes or bills, £
On simple contracts, £
On estimated liabilities, £

The assets of the company on that day were—

Government securities [*stating them*], £
Bills of exchange and promissory notes, £
Cash at the bankers, £
Other securities, £

* By sec. 44.

* If the company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

*Companies, &c. (Second Schedule.)***SECOND SCHEDULE.****FORM A.****MEMORANDUM of ASSOCIATION of a company limited
by shares.***

1st. The name of the company is "The Eastern Steam Packet Company, Limited."

2nd. The registered office^b of the company will be situate in England.

3rd. The objects for which the company is established are, "the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th. The liability of the members is limited.

5th. The capital of the company is two hundred thousand pounds, divided into one thousand shares of two hundred pounds each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.			Number of Shares taken by each Subscriber.
* 1. John Jones of	in the county of	merchant	200
" 2. John Smith of	in the county of	" "	25
" 3. Thomas Green of	in the county of	" "	30
" 4. John Thompson of	in the county of	" "	40
" 5. Caleb White of	in the county of	" "	15
" 6. Andrew Brown of	in the county of	" "	5
" 7. Cæsar White of	in the county of	" "	10
Total Shares taken . . .			325

Dated the 22nd day of November, 1861.

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

* Pursuant to sec. 8.

^b Definition of registered office, sec. 39.

Companies, &c. (Second Schedule.)

FORM B.

MEMORANDUM and ARTICLES of ASSOCIATION of a company limited by guarantee, and not having a capital divided into shares.^a

MEMORANDUM of ASSOCIATION.

1st. The name of the company is "The Mutual London Marine Association, Limited."

2nd. The registered office^b of the company will be situate in England.

3rd. The objects for which the company is established are, "the mutual insurance of ships belonging to members of the company, and the doing all such other things as are incidental or conducive to the attainment of the above objects."

4th. Every member of the company undertakes to contribute to the assets of the company in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member, and the costs, charges, and expenses of winding up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding ten pounds.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.

" 1. John Jones of	in the county of	merchant.
" 2. John Smith of	in the county of	
" 3. Thomas Green of	in the county of	
" 4. John Thompson of	in the county of	
" 5. Caleb White of	in the county of	
" 6. Andrew Brown of	in the county of	
" 7. Cæsar White of	in the county of	

Dated the 22nd day of November, 1861.

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

^a Pursuant to sec. 9.

^b Definition of registered office, sec. 39.

*Companies, &c. (Second Schedule.)***ARTICLES of ASSOCIATION*** to accompany preceding MEMORANDUM of ASSOCIATION.

1. The company, for the purpose of registration, is declared to consist of five hundred members.^a

2. The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

^a The number of members which company limited by guarantee, not having a capital divided into shares, proposes to register with, to be inserted in Articles, pursuant to sec. 14.

Definition of Members.

3. Every person shall be deemed to have agreed to become a member^a of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

^a Definition of member, sec. 23.

General Meetings.

4. The first general meeting shall be held at such time, not being more than three months after the incorporation^a of the company, and at such place, as the directors may determine.

5. Subsequent general meetings^b shall be held at such time and place as may be prescribed by the company in general meeting; and if no other time or place is prescribed, a general meeting^b shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

6. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

7. The directors may, whenever they think fit, and they shall, upon a requisition made in writing by any five or more members, convene an extraordinary general meeting.

8. Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office^c of the company.

9. Upon the receipt of such requisition the directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other five members, may themselves convene a meeting.

^a Date of incorporation of company, sec. 18. ^b General meetings to be held annually, sec. 49. ^c Definition of registered office, sec. 39.

* *These articles only apply to such companies as specially adopt them, sec. 14.*

**Companies, &c. (Second Schedule.)*

Proceedings at General Meetings.

10. Seven days' notice at the least, specifying the place, the day, and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

11. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets, and the ordinary report of the directors.

12. No business shall be transacted at any meeting, except the declaration of a dividend, unless a quorum of members is present at the commencement of such business; and such quorum shall be ascertained as follows: that is to say, if the members of the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed thirty.

13. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened upon the requisition of the members, shall be dissolved. In any other case it shall stand adjourned to the same day in the following week at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

14. The chairman (if any) of the directors shall preside as chairman at every general meeting of the company.

15. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of such meeting. •

16. The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

* *These articles only apply to such companies as specially adopt them, sec. 14.*

17. At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution."

^a Evidence of proceedings at meetings, sec. 67.

19. Every member^a shall have one vote and no more.

21. No member^a shall be entitled to vote at any meeting unless all moneys due from him to the company have been paid.

23. No person shall be appointed a proxy who is not a member,^a and the instrument appointing him shall be deposited at the registered office^a of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

I, _____ of _____ company limited, in the county of _____ being a member of the _____ company limited, hereby appoint _____ of _____ as my proxy, to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the company, to be held on the _____ day of _____ next, and at any adjournment thereof to be held on the _____ day of _____ next [or at any meeting of the company that may be held in the year _____].

day of

in the presence of

Directors.

* These articles only apply to such companies as specially adopt them, sec. 14.

**Companies, &c. (Second Schedule.)*

26. Until directors are appointed,^b the subscribers^a of the Memorandum of Association shall for all the powers of this Act be deemed to be directors.

^a Subscribers to Memorandum of Association, sec. 6.

^b Appointment of directors deemed valid until contrary shown, sec. 67.

Powers of Directors.

27. The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not hereby required to be exercised by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

Election of Directors.

28. The directors^a shall be elected annually by the company in general meeting.

^a Appointment of directors deemed valid until contrary shewn, sec. 67.

Business of Company.

[Here insert Rules as to Mode in which Business of Insurance is to be conducted.]

Accounts.

29. The accounts of the company shall be audited by a committee of five members,^a to be called the audit committee.

30. The first audit committee shall be nominated by the directors out of the body of members.^a

31. Subsequent audit committees shall be nominated by the members at the ordinary general meeting in each year.

32. The audit committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

33. The audit committee shall have a list delivered to them of all books kept by the company, and they shall at all reasonable times have access to the books and accounts of the company. They may, at the expense of the company, employ accountants or other persons to assist them in investigating such accounts, and they may in relation to such accounts examine the directors or any other officer of the company.

34. The audit committee shall make a report to the members^a upon the balance-sheet and accounts, and in every such report they shall state whether in their opinion the balance-

^a These articles only apply to such companies as specially adopt them, sec. 14.

**Companies, &c. (Second Schedule.)*

sheet is a full and fair balance-sheet, containing the particulars required by these regulations of the company, and properly drawn up, so as to exhibit a true and correct view of the state of the company's affairs, and in case they have called for explanation or information from the directors, whether such explanations or information have been given by the directors, and whether they have been satisfactory, and such report shall be read together with the report of the directors at the ordinary meeting.

^a Definition of members, sec. 23.

Notices.

35. A notice^a may be served by the company^b upon any member,^c either personally, or by sending it through the post in a prepaid letter, addressed to such member at his registered place of abode.^d

36. Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed, and put into the post-office.

^a Authentication of notices of company, sec. 64.

^b Service of notices on company, secs. 62 and 63.

^c Definition of member, sec. 23 ^d Register of members, sec. 25.

Winding up.

37. The company shall be wound up voluntarily^a whenever an extraordinary resolution,^a as defined by the Companies Act, 1862, is passed, requiring the company to be wound up voluntarily.

Names, Addresses, and Descriptions of Subscribers.

" 1. John Jones of	in the county of	merchant.
" 2. John Smith of	in the county of	
" 3. Thomas Green of	in the county of	
" 4. John Thompson of	in the county of	
" 5. Caleb White of	in the county of	
" 6. Andrew Brown of	in the county of	
" 7. Cæsar White of	in the county of	

Dated the 22nd day of November, 1861.

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

^a Definition of winding up voluntarily, and extraordinary resolution, sec. 129.

^{*} *These articles only apply to such companies as specially adopt them, sec. 14.*

Companies, &c. (Second Schedule.)

FORM C.

MEMORANDUM and ARTICLES of ASSOCIATION of a company limited by guarantee, and having a capital divided into shares.*

MEMORANDUM of ASSOCIATION.

1st. The name of the company is "The Highland Hotel Company, Limited."

2nd. The registered office^b of the company will be situate in Scotland.

3rd. The objects for which the company is established are, "the facilitating travelling in the Highlands of Scotland, by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th. Every member of the company undertakes to contribute to the assets of the company in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member, and the costs, charges, and expenses of winding up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding twenty pounds.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.*

" 1. John Jones of	in the county of	merchant.
" 2. John Smith of	in the county of	
" 3. Thomas Green of	in the county of	
" 4. John Thompson of	in the county of	
" 5. Caleb White of	in the county of	
" 6. Andrew Brown of	in the county of	
" 7. Cæsar White of	in the county of	

Dated the 22nd day of November, 1861.

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

* Pursuant to sec. 9. ^b Definition of registered office, sec. 39.

* By an evident mistake in Act, each subscriber must sign Memorandum for a certain number of shares, sec. 14.

*Companies, &c. (Second Schedule.)***ARTICLES of ASSOCIATION to accompany preceding MEMORANDUM of ASSOCIATION.**

1. The capital^a of the company shall consist of five hundred thousand pounds, divided into five thousand shares of one hundred pounds each.

2. The directors may, with the sanction of the company in general meeting, reduce the amount of shares.

3. The directors may, with the sanction of the company in general meeting, cancel any shares belonging to the company.

4. All the articles of Table A^b shall be deemed to be incorporated with these articles, and to apply to the company.

WE, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital^a of the company set opposite our respective names:

Names, Addresses, and Descriptions of Subscribers.				Number of Shares taken by each Subscriber.*
" 1.	John Jones of	in the county of	merchant	200
" 2.	John Smith of	in the county of	. .	25
" 3.	Thomas Green of	in the county of	. .	30
" 4.	John Thompson of	in the county of	. .	40
" 5.	Caleb White of	in the county of	. .	15
" 6.	Andrew Brown of	in the county of	. .	5
" 7.	Cæsar White of	in the county of	. .	10
Total shares taken . . .				325

Dated the 22nd day of November, 1861.

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell, Middlesex.

^a The amount of capital of company limited by guarantee, having a capital divided into shares, to be inserted in Articles, pursuant to sec. 14.

^b See p. 112.

* By an evident mistake in Act, this must be inserted in the Memorandum of Association, instead of the Articles, sec. 14.

Companies, &c. (Second Schedule.)

FORM D.

MEMORANDUM and ARTICLES of ASSOCIATION of an unlimited company, having a capital divided into shares.*

MEMORANDUM of ASSOCIATION.

1st. The name of the company is "The Patent Stereotype Company."

2nd. The registered office^b of the company will be situate in England.

3rd. The objects for which the company is established are, "the working of a patent method of founding and casting stereotype plates, of which method John Smith, of London, is the sole patentee."

WE, the several persons whose names are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.*

"1. John Jones of	in the county of	merchant.
"2. John Smith of	in the county of	
"3. Thomas Green of	in the county of	
"4. John Thompson of	in the county of	
"5. Caleb White of	in the county of	
"6. Andrew Brown of	in the county of	
"7. Abel Brown of	in the county of	

Dated the 22nd day of November, 1861.

Witness to the above signatures,

A.B., No. 20, Bond Street, Middlesex.

* Pursuant to sec. 10. ^b Definition of registered office, sec. 23.

* By an evident mistake in Act, each subscriber must sign Memorandum for a certain number of shares, sec. 14.

*Companies, &c. (Second Schedule.)***ARTICLES of ASSOCIATION to accompany preceding MEMORANDUM of ASSOCIATION.***Capital of the Company.*

The capital^a of the company is two thousand pounds, divided into twenty shares of one hundred pounds each.

Application of Table A.

All the Articles of Table A^b shall be deemed to be incorporated with these Articles, and to apply to the company.

WE, the several persons whose names and addresses are subscribed, agree to take the number of shares^c in the capital of the company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of Shares taken by Subscribers.*
" 1. John Jones of in the county of merchant	1
" 2. John Smith of in the county of .	5
" 3. Thomas Green of in the county of .	2
" 4. John Thompson of in the county of .	2
" 5. Caleb White of in the county of .	3
" 6. Andrew Brown of in the county of .	4
" 7. Abel Brown of in the county of .	1
Total shares taken . . .	18

Dated the 22nd day of November, 1861.

Witness to the above signatures,

A.B., No. 20, Bond Street. Middlesex.

^a The capital of unlimited company to be named in the Articles, pursuant to sec. 14.

^b See p. 112.

^c By an evident mistake in Act, this must be inserted in the Memorandum of Association, instead of the Articles, sec. 14.

*Companies, &c. (Second Schedule.)***FORM E, as required by the Second Part of the Act.^a**

SUMMARY OF CAPITAL AND SHARES^b of the _____ **COMPANY, made up to the** _____ **day of** _____

Nominal Capital £ _____ **divided into** _____ **Shares of £** _____ **each.**

Number of Shares taken up to the _____ **day of** _____

There has been called up on each Share £ _____

Total Amount of Calls received £ _____

Total Amount of Calls unpaid £ _____

LIST of Persons holding Shares in the _____ **Company on the** _____ **day of** _____

and of Persons who have held Shares thereon at any time during the Year immediately preceding the said _____

day of _____ **, showing their Names and Addresses, and an account of the Shares so held.**

Folio in Register Leger containing Particulars.	NAMES, ADDRESSES, AND OCCUPATIONS.				ACCOUNT OF SHARES.				Remarks.
	Surname.	Christian Name.	Address.	Occupation.	Shares held by existing Members on the Day of	Additional Shares held by existing Members during preceding Year.		Shares held by Persons no longer Members.	
						Number	Date of Transfer.		
						Number	Date of Transfer.	Number	Date of Transfer.

^a Pursuant to sec. 26.^b Provision when capital converted into stock, sec. 29.

Companies, &c. (Third Schedule.)

FORM F.

LICENCE to hold LANDS.*

The Lords of the Committee of Privy Council appointed for the consideration of matters relating to trade and foreign plantations, hereby license the association, limited, to hold the lands hereunder described [*insert description of lands*]. The conditions of this licence are [*insert conditions, if any*].

* Pursuant to sec. 21.

THIRD SCHEDULE.

FIRST PART.*

Date and Chapter of Act.	Title of Act.
21 & 22 Geo. 3, c. 46 (Parliament of Ireland)	An Act to promote Trade and Manufactures by regulating and encouraging Partnerships.
7 & 8 Vict. c. 110 .	An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies.
7 & 8 Vict. c. 111 .	An Act for facilitating the winding up the Affairs of Joint Stock Companies unable to meet their pecuniary Engagements.
7 & 8 Vict. c. 113 .	An Act to regulate Joint Stock Banks in England. ^b
8 & 9 Vict. c. 98 .	An Act for facilitating the winding up the Affairs of Joint Stock Companies in Ireland unable to meet their pecuniary Engagements.
9 & 10 Vict. c. 28 .	An Act to facilitate the Dissolution of certain Railway Companies.
9 & 10 Vict. c. 75 .	An Act to regulate Joint Stock Banks in Scotland and Ireland.
10 & 11 Vict. c. 78 .	An Act to amend an Act for the Registration, Incorporation, and Regulation of Joint Stock Companies.
11 & 12 Vict. c. 45 .	An Act to amend the Acts for facilitating the winding up the Affairs of Joint Stock Companies unable to meet their pecuniary Engagements, and also to facilitate the Dissolution and winding up of Joint Stock Companies and other Partnerships.

*Companies, &c. (Third Schedule.)*FIRST PART—*continued.*

Date and Chapter of Act.	Title of Act.
12 & 13 Vict. c. 108	An Act to amend the Joint Stock Companies Winding-up Act, 1848.
19 & 20 Vict. c. 47 .	An Act for the Incorporation and Regulation of Joint Stock Companies and other Associations.
20 & 21 Vict. c. 14 .	An Act to amend the Joint Stock Companies Act, 1856.
20 & 21 Vict. c. 49 .	An Act to amend the Law relating to Banking Companies. ^a
20 & 21 Vict. c. 78 .	An Act to amend the Act seven and eight Victoria, chapter one hundred and eleven, for facilitating the winding up the Affairs of Joint Stock Companies unable to meet their pecuniary Engagements, and also the Joint Stock Companies Winding-up Acts, 1848 and 1849.
20 & 21 Vict. c. 80 .	An Act to amend the Joint Stock Companies Act, 1856.
21 & 22 Vict. c. 60 .	An Act to Amend the Joint Stock Companies Acts, 1856 and 1857, and the Joint Stock Banking Companies Act, 1857.
21 & 22 Vict. c. 91 .	An Act to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability.

^a Being a list of Acts repealed by sec. 205.

^b Sec. 47 unrepealed, *see* Second Part of this Schedule, p. 148.

^c Part of sec. 12 unrepealed, *see* Second Part of this Schedule, p. 149.

SECOND PART.

7 & 8 Vict., c. 113, s. 47.*

Every company of more than six persons established on the sixth day of May, one thousand eight hundred and forty four, for the purpose of carrying on the trade or business of bankers within the distance of sixty-five miles from London, and not within the provisions of the Act passed in the Session holden in the seventh and eighth years of the reign of Her present Majesty, chapter one hundred and thirteen,

Existing companies to have the powers of suing and being sued.

Companies, &c. (Third Schedule.)

shall have the same powers and privileges of suing and being sued in the name of any one of the public officers of such copartnership as the nominal plaintiff, petitioner, or defendant on behalf of such copartnership; and all judgments, decrees, and orders made and obtained in any such suit may be enforced in like manner as is provided with respect to such companies carrying on the said trade or business at any place in England exceeding the distance of sixty-five miles from London, under the provisions of an Act passed in the seventh year of the reign of King George the Fourth, chapter forty-six, intituled "An Act for the better regulating Copartnerships of certain Bankers in England, and for amending so much of an Act of the thirty-ninth and fortieth years of the reign of his late Majesty King George the Third, intituled 'An Act for establishing an Agreement with the Governor and Company of the Bank of England for advancing the sum of three millions towards the supply for the service of the year 'one thousand eight hundred,' as relates to the same," provided that such first-mentioned company shall make out and deliver from time to time to the commissioners of stamps and taxes the several accounts or returns required by the last-mentioned Act, and all the provisions of the last-recited Act as to such accounts or returns shall be taken to apply to the accounts or returns so made out and delivered by such first-mentioned companies as if they had been originally included in the provisions of the last-recited Act.

* Re-enactment of part of repealed statute, sec. 205.

20 & 21 Vict., c. 49, Part of Section XII.*

Notwithstanding anything contained in any Act passed in the Session holden in the seventh and eighth years of the reign of Her present Majesty, chapter one hundred and thirteen, and intituled "An Act to regulate Joint Stock Banks in England," or in any other Act, it shall be lawful for any number of persons, not exceeding ten, to carry on in partnership the business of banking, in the same manner and upon the same conditions in all respects as any company of not more than six persons could before the passing of this Act have carried on such business.^b

Power to
form bank-
ing partner-
ships of ten
persons.

* Re-enactment of part of repealed statute, sec. 205.

^b See sec. 4 of this Act.

APPENDIX.

TABLE B.*

First Schedule Joint Stock Companies Act, 1856.

REGULATIONS FOR MANAGEMENT OF THE COMPANY.

Shares.

1. No person shall be deemed to have accepted any share in the company unless he has testified his acceptance thereof by writing under his hand in such form as the company from time to time directs.

2. The company may from time to time make such calls upon the shareholders in respect of all moneys unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call, and each shareholder shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the company.

3. A call shall be deemed to have been made at the time when the resolution authorizing such call was passed.

4. If before or on the day appointed for payment any shareholder does not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate of five pounds per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

5. The company may, if they think fit, receive from any of the shareholders willing to advance the same all or any part of the moneys due upon their respective shares beyond the sums actually called for; and upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the company may pay interest at such rate as the shareholder paying such sum in advance and the company agree upon.

6. If several persons are registered as joint-holders of any share,

* *These regulations are only applicable to companies registered before 2nd November, 1862, without special articles, or with articles specially adopting these regulations.*

any one of such persons may give effectual receipts for any dividend payable in respect of such share.

7. The company may decline to register any transfer of shares made by a shareholder who is indebted to them.

8. Every shareholder shall, on payment of such sum, not exceeding one shilling, as the company may prescribe, be entitled to a certificate, under the common seal of the company, specifying the share or shares held by him, and the amount paid up thereon.

9. If such certificate is worn out or lost, it may be renewed, on payment of such sum, not exceeding one shilling, as the company may prescribe.

9a. The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

10. The executors or administrators of a deceased shareholder shall be the only persons recognised by the company as having any title to his share.

11. Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any shareholder, or in consequence of the marriage of any female shareholder, or in any way other than by transfer, may be registered as a shareholder upon such evidence being produced as may from time to time be required by the company.

12. Any person who has become entitled to a share in any way other than by transfer may, instead of being registered himself, elect to have some person to be named by him registered as a holder of such share.

13. The person so becoming entitled shall testify such election by executing to his nominee a deed of transfer of such share.

14. The deed of transfer shall be presented to the company accompanied with such evidence as they may require to prove the title of the transferor, and thereupon the company shall register the transferee as a shareholder.

Forfeiture of Shares.

15. If any shareholder fails to pay any call due on the appointed day, the company may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him, requiring him to pay such call, together with any interest that may have accrued by reason of such non-payment.

16. The notice shall name a further day, and a place or places, being a place or places at which calls of the company are usually made payable, on and at which such call is to be paid. It shall also state that in the event of non-payment at the time and place appointed the shares in respect of which such call was made will be liable to be forfeited.

* Companies to which these regulations are applicable, page 150.

17. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may be forfeited by a resolution of the directors to that effect.

18. Any shares so forfeited shall be deemed to be the property of the company, and may be disposed of in such manner as the company thinks fit.

19. Any shareholder whose shares have been forfeited shall, notwithstanding, be liable to pay to the company all calls owing upon such shares at the time of the forfeiture.

Increase in Capital.

20. The company may, with the sanction of the company previously given in general meeting, increase its capital.

21. Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

22. The first general meeting shall be held at such time, not being more than twelve months after the incorporation of the company, and at such place, as the directors may determine.

23. Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting; and if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

24. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

25. The directors may whenever they think fit, and they shall upon a requisition made in writing by any number of shareholders holding in the aggregate not less than one-fifth part of the shares of the company, convene an extraordinary general meeting.

26. Any requisition so made by the shareholders shall express the object of the meeting proposed to be called, and shall be left at the registered office of the company.

27. Upon the receipt of such requisition the directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other shareholders holding the required number of shares, may themselves convene a meeting.

28. Seven days' notice at the least, specifying the place, the time, the hour of meeting, and the purpose for which any general meeting

* Companies to which these regulations are applicable, page 150.

is to be held, shall be given by advertisement, or in such other manner (if any) as may be prescribed by the company.

29. Any shareholder may, on giving not less than three days' previous notice, submit any resolution to a meeting beyond the matters contained in the notice given of such meeting.

30. The notice required of a shareholder shall be given by leaving a copy of the resolution at the registered office of the company.

31. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of shareholders is present at the commencement of such business, and such quorum shall be ascertained as follows: that is to say, if the shareholders belonging to the company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional shareholders up to fifty, and one for every ten additional shareholders after fifty, with this limitation, that no quorum shall in any case exceed forty.

32. If within one hour from the time appointed for the meeting the required number of shareholders is not present, the meeting, if convened upon the requisition of the shareholders, shall be dissolved. In any other case it shall stand adjourned to the following day, at the same time and place; and if at such adjourned meeting the required number of shareholders is not present, it shall be adjourned *sine die*.

33. The chairman (if any) of the board of directors shall preside as chairman at every meeting of the company.

34. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the shareholders present shall choose some one of their number to be chairman of such meeting.

35. The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

36. At any general meeting, unless a poll is demanded by at least five shareholders, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

37. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the company in general meeting.

Votes of Shareholders.

38. Every shareholder shall have one vote for every share up to ten; he shall have an additional vote for every five shares beyond

* Companies to which these regulations are applicable, page 150.

the first ten shares up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares.

39. If any shareholder is a lunatic or idiot he may vote by his committee, curator bonis, or other legal curator; and if any shareholder is a minor he may vote by his guardian, tutor, or curator, or any one of his guardians, tutors, or curators, if more than one.

40. If one or more persons are jointly entitled to a share or shares the person whose name stands first in the register of shareholders as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

41. No shareholder shall be entitled to vote at any meeting, unless all calls due from him have been paid, nor until he shall have been possessed of his shares three calendar months, unless such shares shall have been acquired or shall have come by bequest, or by marriage, or by succession to an intestate's estate, or by the custom of the City of London, or by any deed of settlement after the death of any person who shall have been entitled for life to the dividends of such shares.

42. Votes may be given either personally or by proxies: a proxy shall be appointed in writing under the hand of the appointer, or if such appointer is a corporation under their common seal.

43. No person shall be appointed a proxy who is not a shareholder, and the instrument or mandate appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote; but no instrument or mandate appointing a proxy shall be valid after the expiration of one month from the date of its execution.

Directors.

44. The number of the directors, and the names of the first directors, shall be determined by the subscribers of the Memorandum of Association.

45. Until directors are appointed, the subscribers of the Memorandum of Association shall for all the purposes of this Act be deemed to be directors.

Powers of Directors.

46. The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not by this Act or by the Articles of Association (if any) declared to be exercisable by the company in general meeting, subject nevertheless to any regulations of the Articles of Association, to the provisions of this Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior Act of the directors which would have been valid if such regulation had not been made.

* *Companies to which these regulations are applicable, page 150.*

Disqualification of Directors.

47. The office of director shall be vacated—

If he holds any other office or place of profit under the company ;

If he becomes bankrupt or insolvent ;

If he is concerned in or participates in the profits of any contract with the company ;

If he participates in the profits of any work done for the company :

But the above rules shall be subject to the following exceptions : that no director shall vacate his office by reason of his being a shareholder in any incorporated company which has entered into contracts with or done any work for the company of which he is director ; nevertheless he shall not vote in respect of such contract or work ; and if he does so vote his vote shall not be counted, and he shall incur a penalty not exceeding twenty pounds.

Rotation of Directors.

48. At the first ordinary meeting after the incorporation of the company the whole of the directors shall retire from office ; and at the first ordinary meeting in every subsequent year one-third of the directors for the time being, or if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

49. The one-third or other nearest number to retire during the first and second years ensuing the incorporation of the company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

50. A retiring director shall be re-eligible.

51. The company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

52. If at any meeting at which an election of directors ought to take place no such election is made, the meeting shall stand adjourned till the next day, at the same time and place ; and if at such adjourned meeting no election takes place, the former directors shall continue to act until new directors are appointed at the first ordinary meeting of the following year.

53. The company may from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

54. Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his

* *Companies to which these regulations are applicable, page 150.*

office so long only as the vacating director would have retained the same if no vacancy had occurred.

Proceedings of Directors.

55. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman, in addition to his original vote, shall have a casting vote. A director may at any time summon a meeting of the directors.

56. The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

57. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the directors.

58. A committee may elect a chairman of their meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

59. A committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present; and in case of an equal division of votes the chairman shall have a casting vote.

60. All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

61. The directors shall cause minutes to be made in books provided for the purpose—

1. Of all appointments of officers made by the directors;
2. Of the names of the directors present at each meeting of directors and committees of directors;
3. Of all orders made by the directors and committees of directors; and,
4. Of all resolutions and proceedings of meetings of the company, and of the directors and committees of directors:

* *Companies to which these regulations are applicable, page 150.*

And any such minute as aforesaid, if signed by any person purporting to be the chairman of any meeting of directors, or committee of directors, shall be receivable in evidence without any further proof.

62. The company, in general meeting, may, by a special resolution, remove any director before the expiration of his period of office, and appoint another qualified person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Dividends.

63. The directors may, with the sanction of the company in general meeting, declare a dividend to be paid to the shareholders in proportion to their shares.

64. No dividend shall be payable except out of the profits arising from the business of the company.

65. The directors may, before recommending any dividend, set aside out of the profits of the company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the company, or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they, with the sanction of the company, may select.

66. The directors may deduct from the dividends payable to any shareholder all such sums of money as may be due from him to the company on account of calls or otherwise.

67. Notice of any dividend that may have been declared shall be given to each shareholder, or sent by post or otherwise to his registered place of abode, and all dividends unclaimed for three years, after having been declared, may be forfeited by the directors for the benefit of the company.

68. No dividend shall bear interest as against the company.

Accounts.

69. The directors shall cause true accounts to be kept—

Of the stock in trade of the company;

Of the sums of money received and expended by the company.

and the matter in respect of which such receipt and expenditure takes place; and,

Of the credits and liabilities of the company;

Such accounts shall be kept upon the principle of double entry, in a cash book, journal, and ledger. The books of account shall be kept at the principle office of the company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the company in general meeting, shall

* *Companies to which these regulations are applicable, page 150.*

be open to the inspection of the shareholders during the hours of business.

70. Once at the least in every year the directors shall lay before the company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

71. The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

72. A balance-sheet shall be made in every year, and laid before the general meeting of the company, and such balance-sheet shall contain a summary of the property and liabilities of the company, arranged under the heads appearing in the form annexed to this Table, or as near thereto as circumstances admit.

73. A printed copy of such balance sheet shall, seven days previously to such meeting, be delivered at or sent by post to the registered address of every shareholder.

Audit.

74. The accounts of the company shall be examined, and the correctness of the balance-sheet ascertained, by one or more auditor or auditors to be elected by the company in general meeting.

75. If not more than one auditor is appointed, all the provisions herein contained relating to auditors shall apply to him.

76. The auditors need not be shareholders in the company. No person is eligible as an auditor who is interested otherwise than as a shareholder in any transaction of the company; and no director or other officer of the company is eligible during his continuance in office.

77. The election of auditors shall be made by the company at their ordinary meeting, or, if there are more than one, at their first ordinary meeting in each year.

78. The remuneration of the auditors shall be fixed by the company at the time of their election.

79. Any auditor shall be re-eligible on his quitting office.

80. If any casual vacancy occurs in the office of auditor, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

* *Companies to which these regulations are applicable, page 150.*

81. If no election of auditors is made in manner aforesaid, the Board of Trade may, on the application of one-fifth in number of the shareholders of the company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the company for his services.

82. Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto.

83. Every auditor shall have a list delivered to him of all books kept by the company, and he shall at all reasonable times have access to the books and accounts of the company. He may, at the expense of the company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the directors or any other officer of the company.

84. The auditors shall make a report to the shareholders upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the company's affairs, and in case they have called for explanations or information from the directors, whether such explanations or information have been given by the directors, and whether they have been satisfactory; and such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

85. Notices requiring to be served by the company upon the shareholders may be served either personally, or by leaving the same or sending them through the post in a letter addressed to the shareholders at their registered places of abode.

86. All notices directed to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons is named first in the register of shareholders; and notice so given shall be sufficient notice to all the proprietors of such share.

87. All notices required by this Act to be given by advertisement shall be advertised in a newspaper circulating in the district in which the registered office of the company is situate.

* *Companies to which these regulations are applicable, page 150.*

APPENDIX.

ORDER OF COURT,

Tuesday, the 11th day of November, 1862.

THE RIGHT HONOURABLE RICHARD BARON WESTBURY, Lord High Chancellor of Great Britain, with the advice and consent of the RIGHT HONOURABLE SIR JOHN ROMILLY, Master of the Rolls, the HONOURABLE the VICE-CHANCELLOR SIR RICHARD TORIN KINDERSLEY, the HONOURABLE the VICE-CHANCELLOR SIR JOHN STUART, and the HONOURABLE the VICE-CHANCELLOR SIR WILLIAM PAGE WOOD, doth hereby, in pursuance and execution of the powers given by the Statute 25th and 26th Victoria, chapter 89, and of all other powers and authorities enabling him in that behalf, order and direct in manner following :—

PETITION TO WIND UP COMPANY.

1. Every petition for the winding up of any company by the court, or subject to the supervision of the court, shall be intituled in the matter of "The Companies Act, 1862," and of the company to which such petition shall relate, describing the company by its most usual style or firm.

2. Every such petition shall be advertised seven clear days before the hearing, as follows :—

(1.) In the case of a company whose registered office, or if there shall be no such office, then whose principal, or last known principal place of business is or was situate within ten miles from Lincoln's Inn Hall, once in the *London Gazette*, and once at least in two London daily morning newspapers.

(2.) In the case of any other company, once in the *London Gazette*, and once at least in two local newspapers circulating in the district where such registered office, or principal, or last known principal place of business, as the case may be, of such company is or was situate.

The advertisement shall state the day on which the petition was presented, and the name and address of the petitioner, and of his solicitor and London agent (if any).

3. Every such petition shall, unless presented by the company, be served at the registered office, if any, of the company, and if no

registered office, then at the principal, or last known principal place of business, of the company, if any such can be found, upon any member, officer, or servant of the company there, or in case no such member, officer, or servant can be found there, then by being left at such registered office or principal place of business, or by being served on such member or members of the company as the court may direct; and every petition for the winding up of a company subject to the supervision of the court, shall also be served upon the liquidator (if any) appointed for the purpose of winding up the affairs of the company.

4. Every petition for the winding up of any company by the court, or subject to the supervision of the court, shall be verified by an affidavit referring thereto, in the form or to the effect set forth in Form No. 2 in the Third Schedule hereto; such affidavit shall be made by the petitioner, or by one of the petitioners, if more than one, or, in case the petition is presented by the company, by some director, secretary, or other principal officer thereof; and shall be sworn after and filed within four days after the petition is presented, and such affidavit shall be sufficient *prima facie* evidence of the statements in the petition.

5. Every contributory or creditor of the company shall be entitled to be furnished, by the solicitor to the petitioner, with a copy of the petition, within twenty-four hours after requiring the same, on paying at the rate of fourpence per folio of seventy-two words for such copy.

ORDER TO WIND UP COMPANY.

6. Every order for the winding up of a company by the court, or subject to its supervision, shall, within twelve days after the date thereof, be advertised by the petitioner once in the *London Gazette*, and shall be served upon such persons (if any) and in such manner as the court may direct.

7. A copy of every order for winding up a company, certified to be a true copy thereof as passed and entered, shall be left by the petitioner at the chambers of the judge, within ten days after the same shall have been passed and entered, and in default thereof any other person interested in the winding up may leave the same, and the judge may, if he thinks fit, give the carriage and prosecution of the order to such person. Upon such copy being left a summons shall be taken out to proceed with the winding up of the company, and be served upon all parties who may have appeared upon the hearing of the petition. Upon the return of such summons, a time shall, if the judge thinks fit, be fixed for the appointment of an official liquidator, and for the proof of debts, and for the list of contributories to be brought in, and directions may be given as to the advertisements to be issued for all or any of such purposes, and generally as to the proceedings and the parties to attend thereon. The proceedings under the order shall be continued by adjournment, and, when necessary, by further summons, and any such direction as

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aforesaid may be given, added to, or varied, at any subsequent time, as may be found necessary.

OFFICIAL LIQUIDATOR.

8. The judge may appoint a person to the office of official liquidator, without previous advertisement, or notice to any party, or fix a time and place for the appointment of an official liquidator, ~~and may~~ appoint or reject any person nominated at such time and place, and appoint any person not so nominated.

9. When a time and place are fixed for the appointment of an official liquidator, such time and place shall be advertised in such manner as the judge shall direct, so that the first or only advertisement shall be published within fourteen days and not less than seven days before the day so fixed.

10. Every official liquidator shall give security by entering into a recognizance with two or more sufficient sureties, in such sum as the judge may approve; and the judge may, if he shall think fit, accept the security of any Guarantee Society established by Charter or Act of Parliament in England, in lieu of the security of such sureties as aforesaid, or of any of them.

11. The official liquidator shall be appointed by order; and unless he shall have given security, a time shall be fixed by such order within which he is to do so; and the order shall fix the times or periods at which the official liquidator is to leave his accounts of his receipts and payments at the judge's chambers, and shall direct that all moneys to be received shall be paid into the Bank of England, immediately after the receipt thereof, to the account of the official liquidator of the company, and an account shall be opened there accordingly; and an office copy of the order shall be lodged at the Bank of England.

12. When an official liquidator has given security pursuant to the directions in the order appointing him, the same shall be certified by the chief clerk, as in the case of a receiver appointed in a cause subject to giving security.

13. The official liquidator shall, on each occasion of passing his account, and also whensoever the judge may so require, satisfy the judge that his sureties are living, and resident in Great Britain, and have not been adjudged bankrupt, or become insolvent, and in default thereof he may be required to enter into fresh security within such time as shall be directed.

14. Every appointment of an official liquidator shall be advertised, in such manner as the judge shall direct, immediately after he has been appointed, and has given security.

15. Where it is desired to appoint provisionally an official liquidator, an application for that purpose may, at any time after the presentation of the petition for winding up the company, be made by summons, without advertisement or notice to any person, unless the judge shall otherwise direct; and such provisional official liquidator may, if the judge shall think fit, be appointed without security.

16. In case of the death, removal, or resignation of an official liquidator, another shall be appointed in his room, in the same manner as directed in the case of a first appointment, and the proceedings for that purpose may be taken by such party interested as may be authorized by the judge to take the same.

17. The official liquidator shall, with all convenient speed after he is appointed, proceed to make up, continue, complete, and rectify the books of account of the company; and shall provide and keep such books of account as shall be necessary, or as the judge may direct, for the purposes aforesaid, and for showing the debts and credits of the company, including a ledger which shall contain the separate accounts of the contributories, and in which every contributory shall be debited from time to time with the amount payable by him in respect of any call to be made as provided by the said Act and these Rules.

18. The official liquidator shall be allowed in his accounts, or otherwise paid, such salary or remuneration as the judge may from time to time direct, including any necessary employment of assistants or clerks by the official liquidator, to which regard shall be had; and such salary or remuneration may either be fixed at the time of his appointment, or at any time thereafter, as the judge may think fit. Every allowance of such salary or remuneration, unless made at the time of his appointment, or upon passing an account, shall be made upon application for that purpose by the official liquidator, on notice to such persons (if any), and supported by such evidence as the judge shall require; nevertheless, the judge may from time to time allow any sum he may think fit to the official liquidator, on account of the salary or remuneration to be thereafter allowed.

19. The accounts of the official liquidator shall be left at the judge's chambers at the times directed by the order appointing him, and at such other times as may from time to time be required by the judge, and such accounts shall, upon notice to such parties (if any) as the judge shall direct, be passed and verified in the same manner as receivers' accounts.

PROOF OF DEBTS.

20. For the purpose of ascertaining the debts and claims due from the company, and of requiring the creditors to come in and prove their debts or claims, an advertisement shall be issued at such time as the judge shall direct; and such advertisement shall fix a time for the creditors to send their names and addresses, and the particulars of their debts or claims, and the names and addresses of their solicitors (if any) to the official liquidator, and appoint a day for adjudicating thereon.

21. The creditors need not attend upon the adjudication, nor prove their debts or claims, unless they are required to do so by notice from the official liquidator; but upon such notice being given, they are to come in and prove their debts or claims within a time to be therein specified.

22. The official liquidator shall investigate the debts and claims sent in to him, and ascertain, so far as he is able, which of such debts and claims are justly due from the company; and he shall make out and leave at the chambers of the judge, a list of all the debts and claims sent in to him, distinguishing which of the debts and claims, or parts of debts and claims so claimed, are, in his opinion, justly due and proper to be allowed without further evidence, and which of them, in his opinion, ought to be proved by the creditors; and he shall make and file, prior to the time appointed for adjudication, an affidavit, setting forth which of the debts and claims in his opinion are justly due and proper to be allowed without further evidence, and stating his belief that such debts and claims are justly due and proper to be allowed, and the reasons for such belief.

23. At the time appointed for adjudicating upon the debts and claims, or at any adjournment thereof, the judge may either allow the debts and claims upon the affidavit of the official liquidator, or may require the same, or any of them, to be proved by the claimants, and adjourn the adjudication thereon to a time to be then fixed; and the official liquidator shall give notice to the creditors whose debts or claims have been so allowed, of such allowance.

24. The official liquidator shall give notice to the creditors whose debts or claims have not been allowed upon his affidavit, that they are required to come in and prove the same by a day to be therein named, being not less than four days after such notice, and to attend at a time to be therein named, being the time appointed by the advertisement, or by adjournment (as the case may be) for adjudicating upon such debts and claims.

25. The value of such debts and claims as are made admissible to proof by the 158th Section of the said Act, shall, so far as is possible, be estimated according to the value thereof at the date of the order to wind up the company.

26. Interest on such debts and claims as shall be allowed shall be computed, as to such of them as carry interest, after the rate they respectively carry; any creditor whose debt or claim so allowed does not carry interest, shall be entitled to interest, after the rate of 4l. per centum per annum, from the date of the order to wind up the company, out of any assets which may remain after satisfying the costs of the winding up, the debts and claims established, and the interest of such debts and claims as by law carry interest.

27. Such creditors as come in and prove their debts or claims pursuant to notice from the official liquidator, shall be allowed their costs of proof, in the same manner as in the case of debts proved in a cause.

28. The result of the adjudication upon debts and claims shall be stated in a certificate to be made by the chief clerk, and certificates as to any of such debts and claims may be made from time to time. All such certificates shall state whether the debts or claims are allowed or disallowed, and whether allowed as against any particular assets, or in any other qualified or special manner.

LIST OF CONTRIBUTORIES.

29. The official liquidator shall, with all convenient speed after his appointment, or at such time as the judge shall direct, make out and leave at the chambers of the judge a list of the contributories of the company; and such list shall be verified by the affidavit of the official liquidator, and shall, so far as is practicable, state the respective addresses of, and the number of shares or extent of interest to be attributed to each such contributory, and distinguish the several classes of contributories. And such list may from time to time, by leave of the judge, be varied or added to by the official liquidator.

30. Upon the list of contributories being left at the chambers of the judge, the official liquidator shall obtain an appointment for the judge to settle the same, and shall give notice in writing of such appointment to every person included in such list, and stating in what character, and for what number of shares, or interest such person is included in the list; and, in case any variation or addition to such list shall at any time be made by the official liquidator, a similar notice in writing shall be given to every person to whom such variation or addition applies. All such notices shall be served four clear days before the day appointed to settle such list, or such variation or addition.

31. The result of the settlement of the list of contributories shall be stated in a certificate by the chief clerk; and certificates may be made from time to time for the purpose of stating the result of such settlement down to any particular time, or as to any particular person, or stating any variation of the list.

SALES OF PROPERTY.

32. Any real or personal property belonging to the company may be sold with the approbation of the judge, in the same manner as in the case of a sale under a decree or order of the court in a suit, or, if the judge shall so direct, by the official liquidator; and upon any such sale by the official liquidator, the conditions or contracts of sale shall be settled and approved of by the judge, unless he shall otherwise direct; and the judge may, if he thinks fit, direct such conditions and contracts, and the abstract of the title to the property, to be submitted to one of the conveyancing counsel of the court, under the second of the Consolidated General Orders, and may, on any sale by public auction, fix a reserved bidding; and, unless on account of the small amount of the purchase moneys or other cause, it shall, having regard to the amount of the security given by the official liquidator, be thought proper that the purchase moneys shall be paid to him, all conditions and contracts of sale shall provide that the purchase moneys shall be paid by the respective purchasers into the Bank of England, to the account of the official liquidator of the company.

CALLS.

33. Every application to the judge to make any call on the contri-

butories or any of them, for any purpose authorized by the said Act, shall be made by summons, stating the proposed amount of such call : and such summons shall be served, four clear days at the least before the day appointed for making the call, on every contributory proposed to be included in such call ; or if the judge shall so direct, notice of such intended call may be given by advertisement.

34. When any order for a call has been made, a copy thereof shall be forthwith served upon each of the contributories included in such call, together with a notice from the official liquidator specifying the amount or balance due from such contributory (having regard to the provisions of the said Act) in respect of such call ; but such order need not be advertised unless, for any special reason, the judge shall so direct.

35. At the time of making an order for a call, the further proceedings relating thereto shall be adjourned to a time subsequent to the day appointed for the payment thereof, and afterwards from time to time so long as may be necessary ; and at the time appointed by any such adjournment, or upon a summons to enforce payment of the call, duly served, and upon proof of the service of the order and notice of the amount due, and non-payment, an order may be made for such of the contributories who have made default, or of such of them against whom it shall be thought proper to make such order, to pay the sum which by such former order and notice they were respectively required to pay, or any less sum which may appear to be due from them respectively.

PAYMENT IN OF MONEYS AND DEPOSIT OF SECURITIES.

36. If any official liquidator shall not pay all the moneys received by him into the Bank of England, to the account of the official liquidator of the company, within seven days next after the receipt thereof, unless the judge shall have otherwise directed, such official liquidator shall be charged in his account with ten shillings for every 100*l.*, and a proportionate sum for any larger amount, retained in his hands beyond such period, for every seven days during which the same shall have been so retained, and the judge may, for any such retention, disallow the salary or remuneration of such official liquidator.

37. All bills, notes, and other securities payable to the company or to the official liquidator thereof shall, as soon as they shall come to the hands of such official liquidator, be deposited by him in the Bank of England for the purpose of being presented by the Bank for acceptance and payment, or for payment only, as the case may be.

38. All orders for payment of calls, balances, or other moneys due from any contributory or other person, shall direct the same to be paid into the Bank of England, to the account of the official liquidator of the company, unless, on account of the smallness of the amount or other cause, it shall, having regard to the amount of the security given by the official liquidator, be thought proper to direct

payment thereof to the official liquidator. Provided that where any such order has been made directing payment of a specific sum into the Bank of England, in case it shall be thought proper for the purpose of enabling the official liquidator to issue execution or take other proceedings to enforce the payment thereof, or for any other reason, an order may, either before service of such former order, or after the time thereby fixed for payment, be made, without notice, for payment of the same sum to the official liquidator.

39. At the time of the service of any order for payment into the Bank of England, the official liquidator shall give to the party served a notice, to the purport or effect set forth in Form No. 40 in the Third Schedule hereto, for the purpose of informing him how the payment is to be made; and before the time fixed for such payment, the official liquidator shall furnish the cashier of the Bank of England with a certificate, to the purport or effect set forth in Form No. 41 in the Third Schedule hereto, to be signed by such cashier, and delivered to the party paying in the money therein mentioned.

40. For the purpose of enforcing any order for payment of money into the Bank of England an affidavit of the official liquidator, to the purport or effect set forth in Form No. 43 in the Third Schedule hereto, shall be sufficient evidence of the non-payment thereof.

41. All moneys, bills, notes, and other securities paid and delivered into the Bank of England, shall be placed to the credit of the account of the official liquidator of the company; and orders for any such payment and delivery shall direct the same accordingly.

**DELIVERY OUT OF SECURITIES, AND PAYMENT OUT AND
INVESTMENT OF MONEYS.**

42. All bills, notes, and other securities delivered into the Bank of England, shall be delivered out upon a request signed by the official liquidator, and countersigned by the chief clerk of the judge; and moneys placed to the account of the official liquidator shall be paid out upon cheques or orders, signed by the official liquidator, and countersigned by the chief clerk of the judge.

43. All or any part of the money for the time being standing to the credit of the account of the official liquidator at the Bank of England, and not immediately required for the purposes of the winding up, may be invested in the purchase of Bank 3*l.* per Cent. Annuities, Reduced 3*l.* per Cent. Annuities, New 3*l.* per Cent. Annuities, or New 2*l.* 10*s.* per Cent. Annuities, in the name of the official liquidator, or in the purchase of Exchequer Bills. All such investments shall be made by the Bank of England, upon a request signed by the official liquidator, and countersigned by the chief clerk of the judge, and which request shall be a sufficient authority for debiting the account with the purchase money; and such Exchequer Bills, and in case of an exchange thereof, any new Exchequer Bills shall be retained by or deposited with the Bank of England, in the name and on behalf of the official liquidator; and

such annuities or Exchequer Bills shall not afterwards be sold or transferred or otherwise dealt with except upon a direction for that purpose, signed by the official liquidator, and countersigned by the chief clerk of the judge, or under an order to be made by the judge.

44. All dividends and interest to accrue due upon any such annuities, shall from time to time be received by the Bank of England, under a power of attorney to be executed by the official liquidator, and placed to the credit of the account of such official liquidator; and such of the Exchequer Bills as shall from time to time be in course of payment, shall be delivered by the Bank of England to one of their cashiers, who is to receive the interest due thereon, and exchange the same for new bills, in case such new bills are issued, or otherwise to receive the principal and interest due on such of the said bills, so in course of payment, as cannot be exchanged, and pay the said interest, or principal and interest, as the case may be, into the Bank of England, to the credit of the account of the official liquidator of the company.

MEETINGS OF CREDITORS OR CONTRIBUTORIES.

45. When the judge shall direct a meeting of the creditors or contributories of the company to be summoned under the 91st or 149th Section of the said Act, the official liquidator shall give notice in writing, seven clear days before the day appointed for such meeting, to every creditor or contributory, of the time and place appointed for such meeting, and of the matter upon which the judge desires to ascertain the wishes of the creditors or contributories; or, if the judge shall so direct, such notice may be given by advertisement, in which case the object of the meeting need not be stated, and it shall not be necessary to insert such advertisement in the *London Gazette*.

46. The votes of the creditors or contributories of the company at any meeting summoned by the direction of the judge, may be given either personally or by proxy; but no creditor shall appoint a proxy who is not a creditor of the company whose debt or claim has been allowed, and no contributory shall appoint a proxy who is not a contributory of the company.

47. The direction of the judge for any meeting of creditors or contributories under the 91st or 149th Section of the said Act, and the appointment of a person to act as chairman of any such meeting, shall be testified by a memorandum signed by the chief clerk of the judge.

DIRECTION OR SANCTION OF THE JUDGE.

48. The sanction of the judge to the drawing, accepting, making, and indorsing of any bill of exchange or promissory note by any official liquidator, shall be testified by a memorandum on such bill of exchange or promissory note, signed by the chief clerk of the judge.

49. Every application for the sanction of the judge to a compromise

with any contributory or other person indebted to the company, shall be supported by the affidavit of the official liquidator that he has investigated the affairs of such contributory or person, and stating his belief that the proposed compromise will be beneficial to the company, and his reasons for such belief; and the sanction of the judge thereto shall be testified by a memorandum, signed by the chief clerk of the judge, on the agreement of compromise, unless any party shall desire to appeal from the decision of the judge, in which case an order shall be drawn up for that purpose.

50. The direction or sanction of the judge for any other proceeding or act to be taken or done by the official liquidator, shall be obtained upon summons, and an order shall be drawn up thereon, unless the judge shall otherwise direct.

APPLICATIONS TO THE COURT OR JUDGE UNDER SS. 137, 138, 141,
167, AND 168 OF THE ACT.

51. Every application under the 137th, 138th, or 141st Section of the said Act shall be made by petition or motion, or, if the judge shall so direct, by summons at chambers; and every application under the 167th or 168th Section of the said Act shall be made by petition.

ORDERS.

52. All orders made in chambers shall be drawn up in chambers, unless specially directed to be drawn up by the Registrar, and shall be entered in the same manner, and in the same office, as other orders made in chambers.

ADVERTISEMENTS.

53. When an advertisement is required for any purpose, except where otherwise directed by these rules, the advertisement shall be inserted once in the *London Gazette*, and in such other newspaper or newspapers, and for such number of times as may be directed. The judge may, in such cases as he shall think fit, dispense with any advertisement required by these rules.

ADMISSION OF DOCUMENTS.

54. Any party to any proceeding in court or chambers relating to the winding up of a company may, by notice in writing in the Form No. 6, in Schedule N, to the Consolidated General Orders, or to the like effect, call on any other party thereto competent to admit the same, to admit any document, saving all just exceptions; and in case of refusal or neglect so to admit, the costs of proving such document shall be paid by the party so refusing or neglecting, unless the judge shall be of opinion that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice shall have been given, except in cases where the omission to give

such notice has been, in the opinion of the taxing master, a saving of expense.

AFFIDAVITS.

55. Where an order shall have been made for the winding up of any company, any person intending to use any affidavit in any proceeding under such order, shall file the same in the Record and Writ Clerks' Office, and give notice thereof to the official liquidator. The person, other than the official liquidator, filing the affidavit shall not be required to take an office copy thereof, but an office copy thereof shall be taken by the official liquidator, and he shall produce the same at the hearing of any application or proceeding upon which it is intended to be used, unless the judge shall otherwise direct.

CERTIFICATE OF CHIEF CLERK.

56. The 48th, 49th, 50th, 51st, 52nd, and 55th rules of the 35th of the Consolidated General Orders, shall apply to all certificates of the chief clerk in the matter of the winding up of any company; nevertheless, certificates on passing the official liquidator's accounts may be approved and signed by the judge without delay, and upon being so signed, shall be filed and forthwith acted upon.

REGISTER AND FILE OF PROCEEDINGS.

57. A register shall be kept of all proceedings in the judge's chambers, in each matter, in the same manner as required by the 57th rule of the 35th of the Consolidated General Orders, and no documents or proceedings are to be filed in the judge's chambers, unless the judge shall otherwise direct.

58. All orders, exhibits, admissions, memorandums, and office copies of affidavits, examinations, depositions, and certificates, and all other documents relating to the winding up of any company, shall be filed by the official liquidator, as far as may be, in one continuous file, and such file shall be kept by him, or otherwise, as the judge may from time to time direct. Every contributory of the company, and every creditor thereof whose debt or claim has been allowed, shall be entitled, at all reasonable times, to inspect such file free of charge, and, at his own expense, to take copies or extracts from any of the documents comprised therein, or to be furnished with such copies or extracts at a rate not exceeding three half-pence per folio of seventy-two words; and such file shall be produced in court, or before the judge, and otherwise, as occasion may require.

PROVISIONAL OFFICIAL LIQUIDATORS.

59. All the above rules relating to official liquidators, shall, so far as the same are applicable, and subject to the directions of the judge in each case, apply to provisional official liquidators.

ATTENDANCE AND APPEARANCE OF PARTIES.

60. Every person, for the time being, on the list of the contributories of the company, left at the chambers of the judge by the official liquidator, and every person having a debt or claim against the company, allowed by the judge, shall be at liberty, at his own expense, to attend the proceedings before the judge, and shall be entitled, upon payment of the costs occasioned thereby, to have notice of all such proceedings as he shall by written request desire to have notice of; but if the judge shall be of opinion that the attendance of any such person upon any proceeding has occasioned any additional costs which ought not to be borne by the funds of the company, he may direct such costs, or a gross sum in lieu thereof, to be paid by such person; and such person shall not be entitled to attend any further proceedings until he has paid the same.

61. The judge may from time to time appoint any one or more of the contributories, or creditors, as he thinks fit, to represent before him, at the expense of the company, all or any class of the contributories or creditors, upon any question as to a compromise with any of the contributories or creditors, or in and about any other proceedings before him relating to the winding up of the company, and may remove the person or persons so appointed. In case more than one person shall be so appointed, they shall unite in employing the same solicitor to represent them.

62. No contributory or creditor shall be entitled to attend any proceedings at the chambers of the judge, unless and until he has entered in a book to be kept there for that purpose his name and address, and the name and address of his solicitor (if any), and upon any change of his address or of his solicitor, his new address, and the name and address of his new solicitor.

SERVICES OF SUMMONSES, NOTICES, ETC.

63. Services upon contributories and creditors shall be effected (except when personal service is required) by sending the notice, or a copy of the summons or order or other proceeding, through the post in a pre-paid letter, addressed to the solicitor of the party to be served (if any) or otherwise to the party himself at the address entered or last entered pursuant to the preceding rule; or if no such entry has been made, then, if a contributory, to his last known address or place of abode; and if a creditor, to the address given by him, pursuant to the foregoing Rule 20; and such notice, or copy summons, order, or other proceeding, shall be considered as served at the time the same ought to be delivered in the due course of delivery by the post-office, and notwithstanding the same may be returned by the post-office.

64. No service under these rules shall be deemed invalid by reason that the Christian name, or any of the Christian names of the person on whom service is sought to be made, has been omitted, or designated by initial letters, in the list of contributories, or in the summons,

order, notice, or other document wherein the name of such contributory or creditor is contained, provided the judge is satisfied that such service is in other respects sufficient.

TERMINATION OF WINDING UP.

65. Upon the termination of the proceedings in chambers for the winding-up of any company, a balance-sheet shall be brought in by the official liquidator of his receipts and payments, and verified by his affidavit; and the official liquidator shall pass his final account, and the balance (if any) due thereon shall be certified. And upon payment of such balance, in such manner as the court or judge shall direct, the recognizance entered into by the official liquidator and his sureties may be vacated.

66. When the official liquidator has passed his final account, and the balance (if any) certified to be due thereon has been paid in such manner as the judge shall direct, a certificate shall be made by the chief clerk, that the affairs of the company have been completely wound up; and in case the company has not been already dissolved, the official liquidator shall, immediately after such certificate has become binding, apply to the judge for an order that the company be dissolved from the date of such order.

67. When the proceedings for winding up any company have been completed, the file of proceedings, and the book containing the official liquidator's account, shall be deposited in the Record and Writ Clerks' Office.

DUTIES OF SOLICITOR OF OFFICIAL LIQUIDATOR.

68. The solicitor of the official liquidator shall conduct all such proceedings as are ordinarily conducted by solicitors of the court; and where the attendance of his solicitor is required on any proceeding in court or chambers, the official liquidator need not attend in person, except in cases where his presence is necessary in addition to that of his solicitor, or the judge shall direct him to attend.

FORMS.

69. The Forms set forth or referred to in the Third Schedule to these Orders, with such variations as the circumstances of each case may require, may be used for the respective purposes mentioned in such Schedule.

FEEs.

70. Solicitors shall be entitled to charge, and be allowed the fees set forth and referred to in the First Schedule hereto, unless the court or judge shall otherwise specially direct.

71. The fees of court set forth and referred to in the Second Schedule hereto, shall be paid in relation to proceedings in the Court of Chancery under the Companies Act, 1862, and shall be collected

by means of stamps, in the manner prescribed by the 39th of the Consolidated General Orders.

TAXATION OF COSTS.

72. Where an order is made in court or chambers for payment of any costs, the order shall direct the taxation thereof by the taxing master; except in cases where a gross sum in lieu of taxed costs is fixed by the order, in accordance with the 37th rule of the 40th of the Consolidated General Orders.

POWER OF JUDGE.

73. The power of the court, and of the judge sitting in chambers, to enlarge or abridge the time for doing any act, or taking any proceeding, to adjourn, or review any proceeding, and to give any direction as to the course of proceeding, is unaffected by these rules.

GENERAL DIRECTIONS.

74. The general practice of the court, including the course of proceeding and practice at the judges' chambers, as provided by the Statute 15th and 16th Victoria, chapter 80, and the general orders of the court relative thereto, shall, in cases not provided for by the Companies Act, 1862, or these rules, and so far as the same are applicable, and not inconsistent with the said Act, or these rules, apply to all proceedings for winding up a company.

APPLICATION OF RULES.

75. These rules apply only to proceedings under the Companies Act, 1862.

COMMENCEMENT OF RULES.

76. These rules shall take effect and come into operation on and after the 25th day of November, 1862.

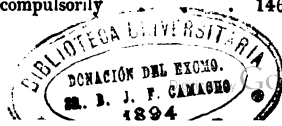
INTERPRETATION.

77. The 1st rule of the 23rd of the Consolidated General Orders, and the General Interpretation Clause therein, shall be deemed to extend and apply to the rules of this Order; and such rules shall have the effect of, and be deemed to be general orders of the court.

WESTBURY, C.
JOHN ROMILLY, M. R.
RICHD. T. KINDERSLEY, V. C.
JOHN STUART, V. C.
W. P. WOOD, V. C.

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